

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No 23100 of 2019**

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Muztaba Hussain Farhat S/o Md Murtaza Hussain Resident of Shahganj,  
Professor Colony, PO - Mahendru, PS - Sultanganj, Distt.- Patna

... .. Petitioner/s

Versus

1. The State of Bihar
2. The State of Bihar through the Principal Secretary, Co-operative Department having its office at Vikas Bhawan, PS - Sachivalaya, Distt- Patna
3. The Registrar Co-operative Department having its office at Vikas Bhawan, PS - Sachivalaya, Distt - Patna
4. The Joint Registrar Co-operative Society Co-operative Department having its office at Divisional Commissioner, Patna, PS - Gandhi Maidan, Distt - Patna
5. The Accountant General Bihar, Patna having his office at Birchand Patel Marg, PS - Kotwali, Distt- Patna

... .. Respondent/s

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**Appearance :**

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| For the Petitioner/s | : | M/s Mukeshwar Dayal, Vikas Mohan, Advocates |
| For the Respondent/s | : | Mr Manoj Kumar Ambastha, SC XXVI            |
|                      |   | Mr Subodh Kr, AC to SC XXVI                 |

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**CORAM: HONOURABLE MR JUSTICE MADHURESH PRASAD**

**ORAL ORDER**

**2      28-01-2020**                      Heard learned counsel for the petitioner and the respondent-State.

Mr Mukeshwar Dayal appearing for the petitioner submits that the punishment, by way of withholding of 5% petitioner's pension for three years under order dated 23.07.2019 of the Registrar, Cooperative Societies, Bihar, is on charges which are one and the same which have been considered by the Criminal Court in GR Case No 442 of 2010/Trial No 59 of 2019 wherein the petitioner has been



acquitted under judgment dated 18.03.2019.

Having regard to the aforesaid development, it is the submission of the petitioner's counsel, relying upon the decisions of the Apex Court in the cases of *Capt M Paul Anthony -Versus- Bharat Gold Mines Ltd & Another, (1999) 3 Supreme Court Cases 679* and *G M Tank -Versus- State of Gujarat & Others, (2006) 5 Supreme Court Cases 446*, that when the proceedings in the Department are on the same charges and based on the same set of evidence, the Authorities should take into consideration the petitioner's acquittal in the criminal case as the same forms a relevant consideration for the Authority in the departmental proceedings and for determining the punishment.

In order to facilitate such consideration, learned counsel submits that the petitioner would be approaching the Principal Secretary (Respondent No 2) for such consideration.

In view of such submission and since consideration is yet to be done by the Principal Secretary (Respondent No 2), this Court, for the present, is not required to adjudicate on the claim of the petitioner.

If it is found that the petitioner's claim is covered by the said two decisions of the Apex Court and that the charges



are one and the same in both the proceedings and based on the same set of evidence, Respondent No 2 (Principal Secretary) shall pass appropriate orders in accordance with law by assigning reasons.

The petitioner's counsel submits that to facilitate such consideration, he would be filing his application within four weeks.

In the event, the same is done, the Principal Secretary (Respondent No 2) shall dispose it of within a period of three months thereafter.

Writ petition stands disposed of.

**(Madhuresh Prasad, J)**

**M.E.H./-**

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