

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.18618 of 2014

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Dinanath Tiwary son of Late Panchanand Tiwary resident of village -Bhathwa
Rup, PS - Kuchai Kote, District - Gopalganj.

... .. Petitioner/s

Versus

1. The State Of Bihar and Ors
2. The Director General of Police, Bihar, Patna.
3. The Inspector General of Police, Bihar.
4. The Deputy Inspector General of Police, Munger, Bihar.
5. The Superintendent of Police, Begusarai, Bihar.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Ebrahim Kabir, Advocate Ms. Shruti Sinha, Advocate
For the Respondent/s	:	Mr.Sc-11

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CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
ORAL JUDGMENT
Date : 20-12-2021

Heard the learned counsels for the parties.

2. In the instant petition, petitioner has prayed for
following reliefs:

“(I) For issuance of appropriate writ/writs, order/orders, direction/directions in nature of certiorari to quash the order dated 29.08.2013 vide memo no. 3866 issued by Director General of Police, Bihar, Patna by which he has dismissed the Memorial filed by the petitioner.

(II) For issuance of appropriate writ/ writs, order/ orders, direction/ directions in nature of certiorari to quash the termination order District order no. 1823, having memo no. 5108 dated 22.11.2004 passed by Superintendent of Police, Begusarai (Annexure-3)

(III) For issuance of appropriate writ/writs, order/orders,



direction/directions in nature of certiorari to quash the order dated 21.9.2012 vide memo no. 1266 passed by DIG, Munger

(IV) Any other appropriate writ/order/direction which your lordship may deem fit and proper.”

3. On 22.11.2020 following order was passed:

“Heard learned counsel for the parties.

There is a dispute in respect of filing of appeal against the order of termination dated 22.11.2004 on 21.01.2005. The appellate authority has stated that the petitioner has not filed any appeal.

On the other hand, petitioner has furnished a copy of the register maintained in the office of the Mandal Kara, Begusarai as Annexure-4 in which he has pointed out that on 21.01.2005 the Office of the appellate authority received petitioner's appeal. The same has not been countered by the Official respondents, therefore, the official respondents are hereby directed to counter the aforesaid issue through additional affidavit.

Relist the matter on 13.12.2021.”

4. Today learned counsel for the State, on instruction, submitted that they do not have copy of the Inward/ Outward register relates back to of the year 2005 so as to ascertain whether petitioner has filed appeal on 21.01.2005 while he was in jail. The appeal was rejected on 21.09.2012. Thereafter, petitioner has preferred memorial and it was rejected on 29.08.2013. The appellate authority rejected the petitioner's



appeal on the ground of delay in preferring the appeal. Since the respondents have not apprised this Court that they were in receipt of memorandum of appeal filed by the petitioner through jail on 21.01.2005, one has to draw inference that he had preferred appeal. Therefore, the appellate authority is hereby directed to consider the petitioner's appeal afresh on merit. The petitioner is at liberty to file additional memorandum of appeal within a period of eight weeks from today. On receipt of such additional memorandum of appeal, the appellate authority is hereby directed to decide the petitioner's appeal on merit within a period of four months from the date of receipt of petitioner's appeal to be submitted.

5. In the light of these facts and circumstances, the appellate authority is hereby directed to not to take note of rejection of memorial dated 29.08.2013 while passing order afresh.

(P. B. Bajanthri, J)

rakhi/-

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	

