

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7986 of 2015

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Sanjeev Kumar Suman, Son of Sri Suryanand Mandal, Resident of Village-
salver, P.O.- Terakhardah, P.S. Baralaha Sikti Distt- Araria.

... .. Petitioner/s

Versus

1. The State Of Bihar through Director General of Police, Bihar, Patna
2. The Inspector General, Darbhanga Division, Darbhanga.
3. The Deputy Inspector General, Darbhanga.
4. The Superintendent of Police, Madhubani.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Rajeev Kumar Singh, Advocate
		Mr. Pranav Kumar, Advocate
For the Respondent/s	:	Mr.

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL ORDER

4 08-03-2021 Today, this case has been listed under the heading
“For Hearing” at the request of the learned counsel for the
petitioner.

Learned counsel for the petitioner submits that
identical issue was considered by a co-ordinate Bench of this
Court vide oral judgment dated 03.05.2019 passed in C.W.J.C.
No. 5183 of 2015.

In order to maintain consistency, the present writ
application is disposed of on identical terms as in C.W.J.C. No.
5183 of 2015, which was allowed on 03.05.2019. However, it
shall be open for the respondents to proceed against the
petitioner as indicated in judgment passed in C.W.J.C. No. 5183



of 2015. The relevant part of the judgment reads as under:

“Short submission of Mr. Singh, counsel appearing for the petitioner is that on the basis of law as laid down by the Apex Court in the case of State of Uttar Pradesh vs. Saroj Kumar Sinha reported in (2010) 2 Supreme Court Cases 772, entire proceeding is vitiated on account of there being no Presenting officer. Mandatory and statutory provision of rules 17 (14) of Bihar CCA Rules have been violated in the proceeding. Enquiry officer/conducting officer examined the witnesses and evidence purporting to discharge duty of the Presenting officer.

Enquiry officer after examining the witnesses, evidence has himself concluded finding of guilt. Such procedure in opinion of this court adopted by the Enquiry officer is contrary to procedure prescribed under rules 17 (14) of the Bihar CCA Rules as well as the law laid down by the Apex Court in the case of Saroj Kumar Sinha (supra).

Law is well settled. The Disciplinary Authority performs quasi judicial functions. He is required to maintain absolute fairness in conduct of departmental enquiry. In a case like the instant one, when he himself examines the evidence and witness on behalf of the department, and proceeds to pass final order and recording findings based on such examination, serious prejudice is caused to the delinquent. Procedure adopted by the Enquiry officer is grossly illegal, unfair and violative of principles of natural justice, as also violative of



mandatory procedure prescribed under rules 17 (14) of the Bihar CCA Rules.

On the said ground alone the entire proceedings are vitiated. Order of punishment issued by the Superintendent of Police, Sheikhpura dated 07.05.2014 is therefore, unsustainable in law and is hereby quashed. The order of appellate authority dated 07.10.2014 has merely affirmed the said illegal order and the same must also collapse. As consequences of quashing of order of punishment, petitioner would be entitled to all consequential benefits. It is open to the Disciplinary Authority to proceed in the matter in accordance with law.

In view of the aforesaid observations/directions, writ petition is allowed.”

The order of punishment as well as order of the appellate authority (Annexures-1 and 2) are quashed. The writ application is allowed and disposed of with the aforesaid liberty to the respondents.

(Anil Kumar Upadhyay, J)

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