

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1490 of 2021

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Dhirendra Kumar son of Sri Brahamdeo Paswan resident of Village-
Maniyarchak, Ward No.- 05, P.S.- Muffasil, District- Munger.. ... Petitioner/s
Versus

1. The State of Bihar through the Director General of Police, Bihar, Patna.
2. The Inspector General of Police, Central Range, Patna.
3. The Deputy Inspector General of Police (Admn.), Bihar, Patna.
4. The Deputy Inspector General of Police, Munger.
5. The Superintendent of Police, Munger.
6. The Superintendent of Police, Nalanda at Biharsharif.
7. The Senior Superintendent of Police, Bhagalpur.
8. The Inspector of Police, Kharagpur Circle, Munger-cum- Enquiry Officer.
9. The Assistant Sub Inspector of Police, Basudeopur O.P., Munger-cum-
Presenting Officer.

... ... Respondent/s

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Appearance :

For the Petitioner/s : Mr.Siyaram Shahi
For the Respondent/s : Mr.Nadim Seraz

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL ORDER

3 30-06-2021 Heard learned counsel for the petitioner and Mr.

Nadim Seraj, learned the counsel appearing on behalf of the

respondents.

2. Petitioner is aggrieved by the order of dismissal

passed by the respondents.

3. Mr. Siyaram Shahi, learned counsel appearing on

behalf of the petitioner has made manifold submissions and

pointed out that there are many infirmities in the conduct of the

departmental proceeding. However, for the purpose of the

present application, the relevant facts are enumerated below:

I. The petitioner was made accused in connection with



Kotwali P.S. Case No. 234 of 2013 stated 27.4.2013. He was taken to the jail custody and thereafter, put under suspension vide memo no. 4021 dated 30.7.2013

ii. On 8.8.2013 -the petitioner was provided a copy of Arop Praoop while he was in custody at Aadarsh Kendriya Kara, Patna and After release from the jail custody, the petitioner wrote a letter to the Inspector of Police,Kharagpur Anchal Munger---cum Inquiry Officer in connection with submission of his defence written explanation. The petitioner demanded relevant documents for his reply but the same was not provided and as such the petitioner could not submit his defence before the Enquiry Officer.

iii. On 17.12.2018 the Superintendent of Police, Munger directed the petitioner to submit his last defence within a period of 15 days vide Annexure-6, 7 and 8, enclosing a copy of the enquiry report. The petitioner submitted his explanation on 8.1.2019 and thereafter no action was taken by the respondents and the respondents in their wisdom decided to appoint Mr. Ansari to conduct fresh enquiry. However, except notice no proceeding nothing was done by Mr. Ansari and thereafter, neither second show cause notice was issued, nor enquiry report of Mr. Ansari, another enquiry officer was



enclosed in connection with fresh enquiry against the petitioner, the respondents have issued order of termination i.e. Annexure-13 dated 23.9.2020.

4. Mr. Shahi would submit that after judgment of the Apex Court in the case of **Ramjan Khan AIR 1991 SC 471** it was incumbent upon the disciplinary authority to issue second show cause notice, enclosing copy of the enquiry report but in the present case no second show cause notice after the enquiry conducted by Mr. Ansari was issued and the petitioner was not served the copy of the enquiry report submitted by Ansari, the second Enquiry Officer to conduct departmental proceeding against the petitioner.

5. Mr. Nadim Seraj, learned counsel for the respondents submits that so far as Annexure-6 is concerned, the petitioner was given second show cause notice alongwith enquiry report. However, he is not in a position to make any statement with regard to second show cause notice including the enquiry report of the Mr. Ansari.

6. The respondent no.5 in his counter affidavit has admitted this factual position that after report of first Enquiry Officer, the respondents have decided to appoint Mr. Ansari to conduct fresh enquiry.



7. Considering the fact that the order of dismissal is violation of principal of natural justice and the judgment of the Apex Court in Ramjan Khan's case (supra), the Court is of the considered view that the order of dismissal contained in Annexure-14 is unsustainable. Accordingly, Annexure-14 is quashed as in view of the law laid down by the Apex Court in the case of Ramjan Khan's case as the order of dismissal cannot sustain as the petitioner was not issued any second show cause notice after fresh enquiry conducted by Mr. Ansari with enquiry report. The matter is remitted back to the respondents for decision afresh from the stage of second show cause notice in view of the fact that the petitioner should be provided opportunity to submit his explanation to second show cause and thereafter appropriate decision may be taken by the respondents within a period of three months from the date of receipt/production of a copy of this order.

8. With the aforesaid, the writ application stands allowed and disposed of.

(Anil Kumar Upadhyay, J)

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