

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.22696 of 2019**

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Lal Mohammad Son of Hawaldar Abdul Rajak, Bhitthi Salempur, Ward No. 12, P.O. Salempur, P.S. Nagar, District- Madhubani.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Home, Government of Bihar, Patna.
2. The Principal Secretary, Department of Home, Government of Bihar, Patna.
3. The Director General of Police, Government of Bihar, Patna.
4. The Deputy Inspector General of Police, Government of Bihar, Darbhanga Range, Darbhanga.
5. The Superintendent of Police, Samastipur, District- Samastipur.
6. The Enquiry Officer, Police Centre, Samastipur, Office of the Superintendent of Police, District- Samastipur.
7. The Officer-in-Charge, Hasampur Police Station, District- Samastipur.

... .. Respondent/s

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**Appearance :**

For the Petitioner/s : Mr. Arun Kumar, Advocate  
For the Respondent/s : Mr. Shivam Kumar Yadav AC to AAG-3

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**CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY**  
**ORAL JUDGMENT**

**Date : 23-06-2021**

The matter has been heard *via* video conferencing.

2. The present writ application has been filed for quashing memo No. 3475 dated 11.12.2018 issued by the Superintendent of Police, Samastipur in Departmental Proceeding No. 61 of 2018 whereby the



petitioner has been terminated from the service on alleged consumption of liquor during prohibition and creating nuisance in public place as well as the order dated 16.03.2019 as contained in memo No. 580 issued by the Deputy Inspector General of Police, Darbhanga(Annexure-2) whereby the appeal preferred by the petitioner against the order as contained in Annexure-1 has been rejected.

3. Many fold submissions have been advanced on behalf of the petitioner to highlight the procedural infirmity in the conduct of the departmental proceeding.

4. Learned counsel appearing on behalf of the petitioner would submits that the departmental proceeding has not been conducted in accordance with the Bihar Government Servants (Classification, Control and Appeal) Rules, 2005 and also in teeth of Bihar Police Manual. He further submits that allegation is that the urine and blood report of the petitioner



suggest that petitioner has consumed liquor but those reports are not on record on which the alleged finding of guilt has been recorded and punishment has been imposed against the petitioner and apart from these reports, there is no other independent evidence to prove the allegation of consumption of liquor and committing nuisance in public place.

5. Be that as it may, the Court is not required to enter into the nitty gritty of the facts and evaluates evidence. There may be some departure in following the procedure but in order to maintain discipline, appropriate penal action is a must to ensure discipline.

6. There may be strict adherence to the provision of conduct rules in the conduct of the departmental proceeding but having regard to the fact that petitioner belongs to a police force, the allegation of consumption of liquor during prohibition and creating nuisance in public place is a very serious offence for which adequate punishment is required.



However, while inflicting punishment, the respondents have to look into the records of the petitioner while inflicting punishment.

7. Considering the fact that the orders contained in Annexures-1 and 2 were not based on appraisal of the entire service record of the petitioner, the Court is of the view that the punishment inflicted on the petitioner is required to be reconsidered.

8. Accordingly, the order dated 11.12.2018 as contained in memo No. 3475 issued by the Superintendent of Police, Samastipur in Departmental Proceeding No. 61 of 2018(Annexure-1) and the order dated 16.03.2019 as contained in memo No. 580 issued by the Deputy Inspector General of Police, Darbhanga(Annexure-2) are hereby quashed.

9. The matter is remitted back to the disciplinary authority to take a fresh decision on the quantum of punishment after providing opportunity of hearing to the petitioner. This exercise must be



completed within a period of six months from the date  
of receipt/production of a copy of this order.

10. With the aforesaid observation/direction,  
the writ petition stands disposed off.

**(Anil Kumar Upadhyay, J)**

Shageer/-

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