

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.21520 of 2019

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Rakesh Kumar Singh @ Rakesh Kumar Son of Late Mahant Singh, Resident of Mohalla-Saguna, Near Vaishali Enterprises, P.O. and P.S.-Danapur Cantt., District Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Home Department Govt. of Bihar, Patna.
2. Principal Secretary, Home Department Govt. of Bihar, Patna.
3. Principal Secretary, General and Administrative Department Govt. of Bihar, Patna.
4. The Commissioner, Patna Division, Patna.
5. The Collector, Patna Collectoriote, Patna.
6. The Addl. Collector, Establishment, Patna.
7. The Deputy Development Commissioner, Patna.
8. The Addl. Collector-cum-Inquiry Officer, Patna.
9. The B.D.O. Pandarak, Patna.
10. The C.O. Masaurhi, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Aditya Narayan Singh.1
For the Respondent/s : Mr.Manish Kumar (Gp4)

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL ORDER

3 13-07-2021 Heard learned counsel for the petitioner and the
counsel appearing on behalf of the State.

2. In departmental proceeding, petitioner has been inflicted punishment of dismissal from service. It is to be noted here that for same set of charge criminal case has been registered which is still pending before the competent authority for trial.

3. During the pendency of the criminal case, the



respondents in their wisdom decided to conduct departmental proceeding.

4. Mr. Ajay Bihari Singh, learned counsel for the petitioner would submit that the enquiry report demonstrates total violation of principles of natural justice, fair play and negation of mandatory regulation with regard to conduct of departmental enquiry under the Bihar Government CCA Rules, 2005.

5. He refers to Annexure-7 to highlight that the enquiry report is primarily based on supervision note of the Superintendent of Police, Patna. The Enquiry Officer recorded the finding of guilt against the petitioner on that basis although he has mentioned that trial is inconclusive and it would be appropriate to await the decision in pending criminal trial.

6. Mr. Singh would submit that not a single witness was examined to prove the charge not even documentary evidence was exhibited in the departmental proceeding and in view of the law laid down by the Apex Court in the case of **Kumaon Mandal Vikash Nigam Ltd. vs Girja Shankar Pant (2001) 1 SCC 182**, the order inflicting the punishment is unsustainable.

7. Considering the totality of the facts including the



fact that the criminal case is pending and during the pendency of the criminal case in the departmental proceeding no witness was examined and no documentary evidence was proved, the enquiry report is unsustainable in the eyes of law. The order of dismissal based on such enquiry report is vitiated. Accordingly the order contained in Annexure-12 is quashed and the petitioner is directed to be reinstated.

9. The matter is remitted back for de-novo enquiry. However, the issue of back wages and current salary will abide by final outcome of fresh enquiry in accordance with principle laid down by the Apex Court in **Girja Shankar Pant's** case as well as judgment in **Roop Singh Nagi Case (2009) 2 SCC 570**, a fresh decision in the departmental proceeding shall be taken by the respondents in accordance with direction issued hereinabove within a period of six months from the date of receipt/production of a copy of this order.

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

(Anil Kumar Upadhyay, J)

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