

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.348 of 2019

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Anil Kumar Sharma Son of Late Sidheshwar Sharma, Resident of Village-
Ramtari, P.S.- Bihta, District- Patna.

... .. Petitioner/s

Versus

1. The State of Bihar
2. The Principal Secretary, Education Department, Govt. of Bihar, Patna.
3. The Secretary cum Appellate Tribunal Education Department, Govt. of Bihar, Patna.
4. The Director Administration cum Additional Secretary, Education Department, Govt. of Bihar, Patna.
5. The Director Primary Education, Education Department, Govt. of Bihar, Patna.
6. The Regional Deputy Director of Education, Magadh Division, Gaya.
7. The District Education Officer, Nawada.
8. The District Programme Officer, Establishment, Nawada.
9. The District Programme Officer S.S.A., Nawada.
10. The Regional Deputy Director Patna/Education Department 4th Floor Bihar School Examination Board 10
11. Ashiq Bari Khan, Son of Late Nazir Ahmad Khan, Asst Teacher Urdu Upgraded Middle School Chandipur, P.S.- Akbarpur, Dist- Nawada.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Bibhuti Narayan
For the Respondent/s	:	Mr. Madhaw Pd. Yadaw- Gp23
		Mr. Arvind Kumar AC to GP-23
		Mr. Rajesh Kumar Sinha, AC to GP-23

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CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
ORAL JUDGMENT

Date : 01-12-2021

Heard the learned counsels for the parties.

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

“(i) For quashing the order contained in
memo no. 599 dated 14.06.2017 (Ann-12) issued by
respondent no.5, whereby and where under the



petitioner has been dismissed from service under Bihar government Servant (classification, control and appeal) Rule 2005 chapter (v) clause-14 sub-clause-XI.

(ii) For quashing the order contained in memo no. 1225 dt. 04.09.2018 (Ann-15) whereby and where under the Statutory appeal preferred against the order of dismissal from service dt. 14.06.2017 has been decided to kept intact.

(iii) Any other relief/s which this Hon'ble Court may deem fit and proper in the facts and circumstances of the case.”

3. The petitioner was subjected to parallel proceedings for the alleged allegation under the Prevention of corruption Act, 1988. Criminal proceedings lodged against the petitioner is still pending consideration before the jurisdiction forum. In respect of disciplinary proceedings, official respondent/competent authority has imposed major penalty while initiating proceedings under Rule 17 of Bihar Government Servants (Classification, Control & Appeal) Rules, 2005 (For short Rules, 2005).

4. One of the contention raised by the petitioner is that the initiation of enquiry itself is illegal and arbitrary and contrary to Sub-rule 3 and 4 of Rule 17 of Rules, 2005.

4. Per contra, learned counsel for the State has not disputed the aforesaid issue that there is non-compliance of Sub-rule 3 and 4 of Rule 17 of Rules, 2005.



5. This Court in case of *Sonu Kumar Vs. State of Bihar, 2021 SCC online Pat.2225*, decided on 22.09.2021 held that if there is any violation of Sub-rule 3 and 4 of Rule 17 of Rules, 2005, the action of the concerned respondent is liable to be set aside.

6. In the light of these facts and circumstances and the fact that there is non-compliance of Sub-rule 3 and 4 of Rule 17 of Rules, 2005, the petitioner has made out a case. Accordingly, the impugned order dated 14.06.2017 is set aside. The matter is remanded to the disciplinary authority to proceed afresh from the defective stage and complete enquiry proceedings within a period of six months.

7. This is yet another case where there is violation of Sub-rule 3 and 4 of Rule 17 of Rules, 2005 in the initiation of disciplinary proceeding against the officer of State of Bihar.

8. Time and again, this Court has come across in respect of violation of Sub-rule 3 and 4 of Rule 17 of Rules 2005 in disciplinary proceedings. The same has not been taken note of by the disciplinary authority. Therefore, the Chief Secretary, State of Bihar is hereby directed to take appropriate action against such of those disciplinary authorities after issuance of notice and other formalities against such of those



officials who are keep on violating Sub-rules of Rule 17 of Rules 2005 and the compliance report shall be furnished within a period of six months to the Registry of this Court.

9. The petitioner shall be taken back to duty forthwith, subject to outcome of enquiry proceedings to be concluded.

10. Accordingly, the instant petition stands allowed.

(P. B. Bajanthri, J)

rakhi/-

AFR/NAFR	
CAV DATE	
Uploading Date	07.12.2021
Transmission Date	

