

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1649 of 2021

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Md. Fariyad Ali Son of Md. Suleman Resident of Jiwdhara, P.S.Piprakothi,
Dist-East Champaran.

... .. Petitioner/s

Versus

1. The State of Bihar through the Director General of Police, Bihar.
2. The Director General of Police, Bihar.
3. Inspector General of Police, Tirhut Range, Muzaffarpur.
4. The Superintendent of Police, Sitamarhi.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Nishant Kumar Sinha
For the Respondent/s : Mr.Lalit Kishore (Ag)

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

2 24-01-2022 The matter is heard via video conferencing due to

circumstances prevailing on account of Covid-19 pandemic.

In the instant petition, petitioner has prayed for the
following relief:-

(i)“For reinstating the petitioner on
the post of constable after setting aside
the District order no. 1277/14 dated
24.10.14/25/10/14 passed by the
respondent no. 4 wherein the dismissed
the petitioner in an ex-parte proceeding.

(ii) For allowing the petitioner
to take back his resignation.



(iii) For releasing the petitioner his salary from the date of last paid until the day of his reinstatement.

(iv) for releasing the amount lying in Pran Account of the petitioner.

(v) Any other relief or reliefs which may be granted to the petitioner if they are found legally entitled to in the facts and circumstances of the case.

Petitioner has statutory remedy of appeal before the appellate authority and without existing the remedy of appeal, petitioner has approached this Court.

In the light of decision of Hon'ble Apex Court in the case of **Jammu and Kashmir Vs. R.K.Zalpuri** reported in **A.I.R 2016 SC 3006 at Para 20 held as under;-** "20. Having stated thus, it is useful to refer to a passage from city and Industrial



Development Corporation V.
DosuAardeshir Bhiwandiwalla
and Others, wherein this
Court while dwelling upon
jurisdiction under Article 226
of the Constitution, has
expressed thus;-

The Court while exercising its jurisdiction under
Article 226 is duty-bound to consider whether;-

(a) adjudication of writ petition
involves any complex and dispute
questions of facts and whether they can be
satisfactorily resolved.

(b) the petition reveals all
material facts

(c) the petitioner has any
alternative or effective remedy for the
resolution of the dispute.

(d) person invoking the
jurisdiction is guilty of unexplained delay
and laches.

(e) ex facie barred by any law of



limitation

(f) grant of relief is against
public policy or barred by any valid law
and host of other factors.”

In view of the aforesaid decision the present petition is premature. Accordingly, the petitioner is at liberty to prefer appeal before the appellate authority within a period of eight weeks from the date of receipt of this order. The appellate authority is hereby directed to examine as to whether petitioner’s appeal is within a time limit or not and thereafter, if the petitioner satisfies the appellate authority in that event he is hereby directed to examine the petitioner’s case on merit and decide the appeal.

Accordingly, this writ petition stands disposed of.

(P. B. Bajanthri, J)

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