

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.21217 of 2021

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Braj Kishor Sadanand Son of Late Balram Prasad Yadav Resident of Village -
Sonari, Police Station - Sirdala, Dist. - Nawada.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, General Administration Department, Govt. of Bihar, Patna.
2. The Additional Secretary, General Administration Department, Govt. of Bihar, Patna.
3. The Joint Secretary, General Administration Department, Govt. of Bihar, Patna.
4. The Dy. Secretary, General Administration Department, Govt. of Bihar, Patna.
5. The Under Secretary, General Administration Department, Govt. of Bihar, Patna.
6. The Commissioner, Purnia Division, Purnia.
7. District Magistrate, Kishanganj.
8. The Additional Collector, Kishanganj.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Vipin Kumar Singh
For the Respondent/s	:	Mr. Sheo Shankar Prasad, SC 8
	:	Mr. Bindhyachal Rai

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

Date : 16-02-2022

The matter is heard via video conferencing due to
circumstances prevailing on account of the COVID-19 pandemic.

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

“(i) For issuance of writ in the nature of
certiorari or any other appropriate writ for quashing of
the letter no. 7277 dated 19.07.2021 issued by the
General Administration Department, State of Bihar
whereby the petitioner has been served with the second



show-cause notice on the point of difference of opinion with the enquiry report by travelling beyond the finding of the enquiry officer and relying upon the preliminary enquiry report submitted before the commencement of the Departmental Proceeding.

(ii) For issuance of a writ in the nature of mandamus or any other appropriate writ for restraining the respondents from taking any action against the petitioner pursuant to second show-cause notice bearing letter no. 7277 dated 19.07.2021 issued by General Administration Department, State of Bihar.

(iii) For holding that the second show-cause notice dated 19.07.2021 is neither maintainable nor sustainable being violative of the relevant provisions of the Bihar Government Servants (Classification, Control and Appeal) Rules, 2005 (hereinafter referred to as Rules only).

(iv) For issuance of any other appropriate writ, order or direction, which your Lordships may deem fit and proper in the facts and circumstances of the case.”

3. Petitioner was subjected to disciplinary proceedings.

The Enquiring Officer is stated to have been submitted a report in favour of the petitioner whereas Disciplinary Authority disagreed with the Enquiring Officer's report and proceeded to issue second show cause notice on 19.07.2021. Petitioner is stated to have submitted his explanation. In the meanwhile, petitioner has rushed to this Court in seeking to quash second show cause notice dated 19.07.2021.

4. Show cause notice cannot be interfered in the light of the Apex Court decision in the case of *Union of India and Another Vs. Kunisetty Satyanarayana* reported in (2006) 12 SCC



28 and *Secretary, Ministry of Defence and Others Vs. Prabhash Chandra Mirdha* reported in (2012) 11 SCC 565.

5. Accordingly, writ petition stands disposed off.

6. The Disciplinary Authority is hereby directed to consider each of the contention of the petitioner raised in his explanation to the show cause notice dated 19.07.2021 and proceed to pass a speaking order in accordance with law. The above exercise shall be completed within a period of three months from the date of receipt of this order.

(P. B. Bajanthri, J)

GAURAV S./-

AFR/NAFR	
CAV DATE	
Uploading Date	22.02.2022
Transmission Date	

