

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.3391 of 2023**

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Mahesh Paswan Son of Late Ram Charitra Paswan Resident of Village-  
Chamandih, Police Station- Chakand, District- Gaya.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of General Administrative, Government of Bihar, Patna.
2. The Principal Secretary, Department of Planning, Government of Bihar, Patna.
3. The Divisional Commissioner, Magadh Divison, Gaya.
4. The District Collector, Gaya.
5. The District Planning Officer, Gaya.
6. The Dy. Collector (Establishment), Gaya.
7. The Block Development Officer, Tankuppa.

... .. Respondent/s

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**Appearance :**

For the Petitioner/s : Mr. Virendra Prasad, Advocate  
For the State : Mr. Sanjay Kumar, AC to AAG- 4

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**CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD**  
**ORAL ORDER**

3      01-08-2023              Heard learned counsel for the petitioner and learned  
counsel for the State.

2.      Learned counsel for the petitioner submits that the  
impugned order, dated 10-06-2020, as contained in Annexure-  
23 to the writ petition, is factually incorrect. The allegation of  
not placing the file before the Block Development Officer (for  
brevity 'B.D.O') in terms of order dated 05-05-2014, passed in  
C.W.J.C No. 22417 of 2013 is incorrect. It is submitted that as  
soon as the order was received, the petitioner has acted



promptly, and placed the matter before the BDO, who has marked it to someone else.

3. The contentions raised by the petitioner are substantially raising factual dispute with the finding arrived at in the impugned order of punishment dated 10-06-2020, passed under Rule 43 (b) of the Bihar Pension Rules; and the petitioner's version of the sequence of events regarding which charge memo has been issued on 16-01-2017. While exercising writ jurisdiction under Article 226 of the Constitution of India, this Court refrains from entering into the factual disputes.

4. Learned counsel for the State, on the other hand, submits that in the counter affidavit, they have raised an objection that without availing the remedy of appeal before the Divisional Commissioner, Magadh Division, the petitioner has directly come to this Court.

5. Such objection having been raised by the State in its counter affidavit, this Court would observe that the factual dispute can be appreciated by filing an appeal. If the petitioner approaches the Divisional Commissioner, Magadh Division, Gaya (respondent No. 3) by filing an appeal within four (4) weeks, the respondent No. 3 would be obliged to consider the petitioner's case on merits without raising the issue of the same



being filed by any delay.

6. Accordingly, writ petition is dismissed.

(Madhuresh Prasad, J)

Raj kishore/-

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