

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.20096 of 2011**

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Yogendra Prasad Bhakta S/O Late Chhatradhari Bhagat Resident of Village-  
Haribella, P.S- Bathnaha, District- Sitamarhi.

... .. Petitioner

Versus

1. The State of Bihar, through the Principal Secretary, Department of Revenue and Land Reforms, Government of Bihar, Patna
2. The Principal Secretary, Department of Revenue and Land Reforms, Government of Bihar, Patna.
3. The Collector, Sitamarhi.
4. The Additional Collector, Sitamarhi.
5. The Additional Collector Admn., Sitamarhi.
6. The Deputy Collector-Cum-Conducting Officer, Sitamarhi.

... .. Respondents

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**Appearance :**

For the Petitioner/s : Mr.Ashok Kumar Mishra, Advocate  
For the Respondent/s : Mr. Ajay Kumar, AC to GP-4

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**CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD**  
**ORAL ORDER**

3      13-02-2023                      Heard learned counsel for the petitioner and learned  
counsel for the State.

The petitioner in the present case is seeking the  
following reliefs:-

“I. A writ in the nature of certiorari or any other appropriate writ/order or direction quashing the order dated 10.10.03 (Annexure-1) issued by the respondent no. 3 whereby and whereunder memo of charges in Form “Ka” was issued to the petitioner and he was directed to reply the charges within 15 days after receipt of the memo of charges.

II. A writ in the nature of certiorari or any other appropriate writ/order or direction quashing the memo no. 747 dated 10.5.05 (Annexure-6) issued by the District Magistrate, Sitamarhi whereby and whereunder the petitioner has been published in Departmental proceeding and awarded



punishment of stoppage of three increment with cumulative effect and he was further cesured.

III. A writ in the nature of Mandamus or any other appropriate writ/order or direction directing the respondents to pay all consequential benefits to the petitioner.

IV. Any other appropriate writ/order or direction which your lordships may deem fit and proper.”

Learned counsel for the petitioner has drawn the attention of this Court towards the statements made in paragraph ‘22’ of the writ application which reads as under:-

“22. That it is humbly submitted that no date of enquiry was ever communicated to the petitioner. No regular departmental proceeding was conducted, no witnesses examined, no opportunity was given to cross examine the witness, no enquiry report was ever served on the petitioner, no 2<sup>nd</sup> show cause notice before the punishment was issued/served to the petitioner and he has been inflicted major punishment which is against the decision of the Hon’ble High Court and the Hon’ble Supreme Court. Even punishment order was not served upon the petitioner.”

A counter affidavit has been filed on behalf of the respondents. It has been sworn by the District Supply Officer. Perusal of the counter affidavit would show that the respondents are totally silent as regards the statements made in paragraph ‘22’ of the writ application. The specific statements of the petitioner are such that non-compliance with those requirements would render the impugned order illegal, arbitrary and bad in law. The fact that the respondents have not endeavored to answer paragraph ‘22’ of the writ application is a pointer to the fact that



they have no answer to those statements.

In result, the impugned order as contained in Memo No. 747 dated 10.05.2005 (Annexure '6') is liable to be set aside and the same is accordingly set aside. Let the Disciplinary proceeding proceed with the matter, if so advised.

This Court has been informed that the petitioner has already attained the age of superannuation.

Be that as it may, it is open for the Disciplinary Authority to look into the matter. The Disciplinary Authority is at liberty to proceed afresh against the petitioner, if so advised, in accordance with law.

This writ application stands disposed of accordingly.

**(Rajeev Ranjan Prasad, J)**

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