

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1671 of 2023

Mr. Vijay Shankar Thakur, Son of Late Ram Karn Thakur Resident of Ward
No. 8, Raghauli, Madhubani, Bihar.

... .. Petitioner/s

Versus

1. The State of Bihar through District Magistrate, Madhubani.
2. Joint Director, Secondary Education Department, Govt. of Bihar, Patna.
3. Director, Secondary Education Department, Government of Bihar.
4. Regional Deputy Director-cum-Additional Director, Darbhanga Division,
Darbhanga.
5. Principal Secretary, Education Department, Government of Bihar, Patna.
6. District Programme Officer (Establishment), Madhubani.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr.Archana Sinha @ Archana Shahi, Advocate Mr.Alok Kumar Shahi, Advocate Ms.Swarna Roy, Advocate
For the Respondent/s	:	Mr.Jitendra Kr. Roy 1 (SC13) Mr.U.K.Singh, AC to SC 13

CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI
ORAL ORDER

8 01-08-2024 A very short question is involved in the instant writ petition, though the volume of the record may speak lots of disputed questions of fact. However, there is no disputed questions of fact in the instant writ petition rather there is admission on the part of the respondents.

2. The petitioner was clerk in the office of the Regional Deputy Director, Darbhanga Division. While working as a clerk, he acted as a whistle blower by sending reports of financial irregularity and rendering unequal treatment in favour of some employees. The District Education Officer did not find



his act and conduct satisfactory. Therefore, on the recommendation of the District Inquiry Officer, the petitioner was suspended and a departmental inquiry was commenced. The inquiry officer, on due inquiry, did not find him guilty of any charges. He proposed to exonerate the petitioner. On the basis of the said inquiry report, the Director, Secondary Education Department exonerated him of all departmental charges. His order of suspension was accordingly withdrawn and he was directed to join further to his post *vide* an order dated 21st of May, 2022. Subsequently, however, on the basis of the same charge, the petitioner was recommended for departmental inquiry for the second time and he was suspended. The petitioner approached this Court challenging the order of suspension dated 2nd of January, 2023.

3. At the outset, this Court was of general opinion that if an employee is subjected to departmental inquiry, the Service Law demands that he should face the inquiry and if he is punished by the disciplinary authority, the order of punishment can be challenged under Article 226 of the Constitution of India.

4. In other words, the Court generally remains reluctant to pass any order stopping departmental proceeding. However, the facts and circumstances in the instant case is



otherwise.

5. I have already recorded that the petitioner was once exonerated of the charges by the disciplinary authority, accordingly, the order of suspension passed against him was withdrawn and he was directed to join his duties on and from 21st of May, 2022.

6. Learned Advocate on behalf of the State-Respondents draws my attention to Annexure - C to the counter affidavit, wherefrom it is learnt that a Committee, consisting of the District Education Officer, Madhubani; the District Programme Officer, Secondary Education, Madhubani; the District Programme Officer, Secondary Education, Samastipur; and the District Programme Officer, Establishment, Madhubani was constituted to revisit the allegation made against the petitioner and the Committee practically could not take any decision in the absence of the delinquent employee/petitioner before the Inquiry Committee and the inquiry was closed by an order 7th of January, 2022.

7. It is needless to say that order dated 7th of January, 2022 was within the knowledge of the District Education Officer, Madhubani because he was a party to the said Committee. In spite of the fact that the Committee could not



take any decision with regard to second inquiry in respect of the same charges and the petitioner having been reinstated by an order dated 21st of May, 2022, the order of suspension in contemplation of second departmental inquiry on the basis of the same charges is found to be unjust, improper and erroneous. When the petitioner was exonerated after due inquiry by the disciplinary authority, the initiation of second inquiry is barred under the principle of *res judicata*.

8. Considering the above aspect of the matter, the instant writ petition is allowed.

9. The order of suspension, dated 2nd of January, 2023, is quashed and set aside.

10. The respondents are directed to permit the petitioner to join his duties with immediate effect.

11. The petitioner is entitled to get entire financial and consequential benefits in respect of his employment.

(Bibek Chaudhuri, J)

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