

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.19183 of 2015**

Arbind Mehtha Jalwi @ Arbind Mehta Jalwi son of Late Dr. Ramji Mehtha Jalwi, resident at Mohalla- Mali Ghat, Dr. Ramji Mehtha Path, P.S.- Mithanpura, District and Town- Muzaffarpur.

... .. Petitioner/s

Versus

1. The State Of Bihar.
2. The Principal Secretary, Human Resources Development Department, Government of Bihar, New Secretariat, Vikas Bhawan, Patna.
3. The Director, Primary Education, Human Resources Development Department, Government of Bihar, New Secretariat, Vikas Bhawan, Patna.
4. The Regional Deputy Director of Education, Tirhut Division, Muzaffarpur.
5. The District Magistrate, Muzaffarpur, District- Muzaffarpur.
6. The District Education Officer, Muzaffarpur
7. The District Programme Officer Estt., Muzaffarpur, District- Muzaffarpur.
8. The Area Education Officer, Kanti, Muzaffarpur.
9. The Block Education Officer, Boachaha, Muzaffarpur.

... .. Respondent/s

**Appearance :**

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|----------------------|---|------------------------------------|
| For the Petitioner/s | : | Mr.Nityanand Mishra, Advocate      |
|                      | : | Mr. Alok Abhinav, Advocate         |
| For the Respondent/s | : | Mr.Manish Kumar, AC to AAG 6 (Ex.) |
|                      | : | In-charge AAG 5                    |

**CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA**  
**ORAL JUDGMENT**

**Date : 15-03-2024**

1. Heard learned counsel for the parties concerned.
2. The petitioner has filed the present writ application for quashing of the order dated 09.10.2009, issued by the then District Superintendent of Education, Muzaffarpur as contained in Annexure-15, whereby major punishment has been imposed in a departmental proceeding reverting him on the lower post and forfeiting three



increments with cumulative effect. The consequential order passed by the appellate authority i.e. Regional Deputy Director of Education, Muzaffarpur dated 03.09.2015 at Annexure-22 has also been challenged.

3. The brief facts of the case are that the petitioner was working as Headmaster in Government Primary School, Lohsari, Block-Boachaha, District-Muzaffarpur. It is alleged that by order dated 26.06.2000, issued by the District Magistrate, Muzaffarpur, the petitioner was put under suspension and vide order dated 26.06.2000, a departmental proceeding was initiated against the petitioner framing 06 charges against him. The petitioner was served with memo of charge dated 28.07.2000.

4. The charges against the petitioner, in brief, are as follows :-

*“ (i) Unauthorized absent from school and entrusted the teaching work to outside person.*

*(ii) Withdrawn salary for the period of unauthorized absent period, as such committed criminal act.*

*(iii) Entrusted the record and property of the school in the hand of outsider, as such tampered with the Government property.*

*(iv) Worked in a non-Government and private*



*institution in violation of service code of conduct.*

*(v) Violated the order of Administrative officer, as such had committed wrong by violating the order of superior authority.*

*(vi) Had taken work of teaching from outside persons, as such acted in irresponsible manner.”*

5. An enquiry report dated 04.08.2000 was submitted by the Enquiry Officer, exonerating the petitioner of all the charges with the opinion that charges have not been established and proved against the petitioner.

6. At this stage, petitioner moved before this Court in C.W.J.C. no. 12854 of 2000 against the order of suspension, contending that charges have not been proved and enquiry report was pending for final orders. The writ application was disposed vide order dated 12.12.2000 with a direction to the District Education Establishment Committee through the D.S.E., Muzaffarpur to pass final order on the said enquiry report, in accordance with law, within a period of four weeks.

7. The District Superintendent of Education, Muzaffarpur, vide Memo no. 274 dated 16.02.2001, rejected



the enquiry report and directed to hold fresh enquiry, while revoking the suspension of the petitioner. The petitioner, being aggrieved by the order of fresh enquiry, filed a writ application bearing C.W.J.C. no. 6110 of 2001, which was disposed on 06.05.2009, holding that order directing the *de novo* enquiry merits no interference, however, at the same time, the Court directed to conclude the departmental proceedings, within a period of 05 months, granted liberty to the respondents to proceed *ex-parte*. The Enquiry Officer/ disciplinary authority, as the case may be, will be required to pass a reasoned and a speaking order recording the satisfaction by giving reasons of the need to proceed *ex-parte* and the Court also directed that if in either event, the departmental proceedings are not completed within 05 months, the respondents shall be precluded from proceeding with the fresh departmental proceedings, ordered on 16.02.2001. In that event, the petitioner shall be deemed to have been exonerated and shall be entitled to all consequential benefits.

8. Learned counsel for the petitioner submits that the impugned order imposing punishment has been passed in violation of the order dated 06.05.2009, inasmuch as the



Court had granted time of 05 months for concluding the departmental proceedings, failing which, the petitioner shall be deemed to have been exonerated and shall be entitled to all consequential benefits but the disciplinary authority did not adhere to the time line fixed by this Court and order of punishment has been passed after lapse of 05 months. Learned counsel further submits that the enquiry report was submitted on 01.10.2009. He next submits that from perusal of the impugned order, it would be clear that the disciplinary authority has recorded that enquiry report was not based upon the evidence. The order of punishment has been passed on the basis of no evidence. Copy of the enquiry report was also not supplied to the petitioner before imposing punishment. The punishment order is based upon charges no. 2 and 4, which have not been proved by the Enquiry Officer with supporting evidence. He also submits that the petitioner has retired on 31.10.2012.

9. *Per contra*, learned counsel for the State submits that petitioner did not cooperate during the course of enquiry and as such, it was difficult to collect evidence by the Enquiry Officer and accordingly, the Enquiry Officer has submitted the report based upon the materials available.



10. I have heard learned counsel for the parties. From perusal of records, it appears that enquiry report was submitted without any evidence. The disciplinary authority has arrived at the finding that the enquiry report is not supported by any evidence. Even if the petitioner was not cooperating during the course of enquiry, it was duty of Enquiry Officer and the Presenting Officer to collect evidence in order to prove the charges. No material has been produced by the State showing that charges no. 2 and 4 were proved by supporting evidence; documentary and/ or oral.

11. The Enquiry Officer ought to arrive at a conclusion upon taking into consideration the materials brought on record by the parties. Upon own admission of the disciplinary authority that enquiry report is not supported by any evidence, as such punishment order based upon the said enquiry report and that too without serving a copy of the same to the delinquent is based upon the *ipse dixit* of the disciplinary authority. The impugned order of punishment is completely violative of principle of natural justice and there is gross procedural error in holding the departmental proceedings.



12. In the result, the impugned order dated 09.10.2009, passed by the then District Superintendent of Education, Muzaffarpur is set aside. Accordingly, the consequential appellate order dated 03.09.2015, passed by the Regional Deputy Director of Education, Muzaffarpur is also set aside. Since petitioner has already retired, the respondents are directed to pay all consequential monetary benefits to the petitioner along with salary for the suspension period, within a period of three months from the date of receipt/ production of a copy of this order.

13. The present writ application is disposed.

(Anil Kumar Sinha, J)

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| AFR/NAFR          | NAFR       |
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