

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.9990 of 2019**

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Narwadeshwar Singh Chauhan, Son of Shri shiv Bhajan Singh Resident of  
Gram- Mahmadpur, Post- Barh, - Barh, Pin- 803213.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Home (Police) Department, Bihar, Patna.
2. Director General of Police Bihar, Patna.
3. Deputy Inspector General of Police Special Branch, Bihar, Patna.

... .. Respondent/s

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**Appearance :**

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| For the Petitioner/s | : | Mr. Abhinav Srivastava, Adv. |
| For the Respondent/s | : | Mr. Manish Kumar (GP-4)      |

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**CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN**  
**ORAL ORDER**

2      30-01-2024                      Heard learned counsel for the petitioner and learned  
counsel for the State.

2. The present writ petition has been filed for quashing the special branch order no. 801/2016 dated 31.03.2016 contained in Memo No. 27 annexed as Annexure-11 issued by the Deputy Inspector General of Police by which the punishment of censure has been inflicted upon the petitioner. Further prayer has also been made to take steps towards granting promotion to the petitioner against the post of Deputy Superintendent of Police with effect from the date from which persons admittedly junior to the petitioner as well as similarly situated have been granted the said promotion. Prayer of granting the other consequential benefits has also been made.



3. Learned counsel for the petitioner submits that by the said order, he has been imposed a minor penalty, but the said penalty has been made in gross violation of Bihar Government Servants (Classification, Control & Appeal) Rules, 2005 (hereinafter referred to as “CCA Rules, 2005”), according to which the proceeding for imposing punishment of the petitioner has been conducted. Counsel further submits that from the impugned order, it is very much clear that the said proceedings have been conducted without Presenting Officer as well as second show cause has not been issued to the petitioner.

4. Learned counsel for the State on the other hand submits that the punishment of minor penalties have been imposed for which under rule, conduct of departmental proceeding is not necessary. Counsel also submits that after constitutional amendment, the provision of granting the second show cause is also not necessary in case of minor punishment and therefore, the said order is fit to be sustained and writ petition is fit to be rejected.

5. Upon perusal of the records and hearing the parties, this Court is of the view that the argument of State counsel is absolutely correct that for minor punishment, departmental proceeding is not necessary. But, the Appointing Authority



decides to conduct the departmental proceeding, then the authority is bound to follow the procedure laid down in law. And according to the said procedure, Presenting Officer is necessary as laid down by this Hon'ble Court in case of ***Upendra Pandit Vs. The State of Bihar & Ors. passed in Letters Patent Appeal No. 507 of 2017*** reported in ***2023 (4) PLJR 568.***

6. It also transpires to this Court that when it has been decided by the authority to initiate the departmental proceeding, then the petitioner is not aware that what punishment minor/major is going to be imposed by the authority. As such, the issuance of second show cause is necessary. The amendment made in the Constitution of India under article 311 has been discussed and explains those situations where it has been decided prior that minor punishment is going to be imposed. In that case, second show cause is not permissible and this is the correct position of the law in view of this Court. In this regard, rule 18(3) of the CCA Rules, 2005 is very clear.

7. In this background, the order challenged i.e. special branch order no. 801/2016 dated 31.03.2016 contained in Memo No. 27 annexed as Annexure-11 issued by the Deputy Inspector General of Police is hereby set aside due to these two



deficiencies.

8. Liberty is hereby granted to the Appointing Authority that he may proceed further in accordance with law. So far as the question of promotion is concerned, this Court is not showing any opinion on this issue. It is absolutely the discretion of the employer to decide.

9. In case, the authority decides to initiate the departmental proceeding, it must be concluded within 90 days from the production of the order at any cost.

10. With this observation, this writ petition is hereby disposed off.

**(Dr. Anshuman, J.)**

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