

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11673 of 2024

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Jitendra Prasad, S/o Paras Nath Ram, Resident of village Ram Nagar, P.S.
Dawath, District Rohtas.

... .. Petitioner/s

Versus

1. The State of Bihar through Director, General of Police Bihar, Patna.
2. Inspector General of Police, Tirhut Range, Muzaffarpur.
3. Senior Superintendent of Police, Muzaffarpur.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Shambhu Shankar Thakur, Advocate
For the Respondent/s : Mr. Standing Counsel 21

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CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI
ORAL ORDER

2 07-08-2024 The petitioner is a Constable of Police posted in the District of Sheohar. In the year 2019, he was posted in the said capacity at Muzaffarpur on the basis of an allegation made by the APO attached to the court of the learned Judicial Magistrate at Muzaffarpur in connection with a Ahiyapur P.S. Case no. 152/2018 under Section 25(1-B) A/26 of the Arms Act, to the effect that the petitioner did not adduce proper evidence in connection with the aforesaid case. A departmental proceeding was initiated against him. After submission of memorandum of charge, Inquiry Officer and the Presenting Officer were appointed. It is alleged on behalf of the petitioner that the Inquiring Officer conducted the inquiry behind the back of the petitioner, he examined to witnesses in the absence of the



petitioner without giving any opportunity to him to cross-examine. Moreover, the APO, on the basis of whose complaint the departmental proceeding was initiated, had not been examined. Thirdly, the Presenting Officer was never present in the impugned inquiry and the Inquiring Officer acted both as Presenting Officer and the Inquiring Officer which is not permissible under the CCA Rules, 2005.

2. On the basis of the said report, the Senior Superintendent of Police, Muzaffarpur, being the departmental authority, passed an order of punishment withholding all three increments of the petitioner with cumulative effect. The petitioner preferred an appeal before the Inspector General of Police, Tirhut Range, Muzaffarpur, who affirmed the order of punishment passed by the Departmental Officer. Hence, the instant writ petitioner.

3. I have heard the learned counsel appearing on behalf of the petitioner and the learned counsel appearing on behalf of the State respondents. Since the petitioner has made his grievance against the inquiring proceedings, alleging, *inter alia*, that he was not given opportunity to cross-examine the witnesses on behalf of the prosecution. Without going into the merit of this case, this Court directs the Inquiring Officer to



resume the inquiry from the stage of recording evidence in presence of the petitioner and the petitioner shall also be given opportunity to cross-examine the witnesses. For the purpose of enabling the petitioner to appear in the departmental proceeding, the Inquiring Officer shall direct the immediate higher official of the petitioner where he is now posted, to direct him to appear in the inquiry proceeding. After conducting inquiry and giving opportunity to the petitioner of cross-examination and hearing, the Inquiry Officer shall conclude the inquiry proceeding within three months from the date of communication of this order, positively.

4. In view of the above order, the order of punishment passed by the departmental authority and affirmed by the appellate authority is quashed.

5. The instant writ petition is thus, disposed of with the above order.

(Bibek Chaudhuri, J)

Suraj Dubey/-

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