

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11537 of 2024

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Sushil Kumar Son of Radha Kishan @ Radha Krishan Resident of Nawka
Tola, P.S. - Mairwa, District - Siwan.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Govt. of Bihar, Patna.
2. Director General of Police, Bihar, Patna.
3. D.I.G. of Police, Saran Range, Chapra.
4. S.P., Saran at Chapra,
5. S.P., Gopalganj.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Ram Hriday Prasad, Advocate
For the Respondent/s : Mr. Government Advocate 10

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CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI
ORAL ORDER

2 05-08-2024 The petitioner is a dismissed Constable of Police. A departmental proceeding was started on the allegation that he was involved in illegal trade of foreign liquor, which is banned in the State of Bihar by promulgation of Bihar Prohibition and Excise Act, 2016. After receiving the memorandum of charge, the petitioner submitted written statement of defense. In the written statement of defense, he specifically mentioned that duty of the constables in the Bank is allotted by an order maintained in a register. He requested the enquiry officer to issue notice for production of the said register. He also requested the enquiry officer in his written statement of defense that some named police personnel ought to be examined in support of his defense



and to unearth the truth of allegation. The enquiry officer did not take any step calling for the said register, CCTV footage and the constables whom the petitioner wanted to examine.

2. Further allegation of the petitioner is that after his suspension, he was transferred to Gopalganj and the entire departmental proceeding was conducted behind his back. At the time of examination of the witnesses on behalf of the prosecution, the petitioner was not allowed to remain present.

3. I have heard the learned Advocate on behalf of the petitioner as well as the State-Respondents.

4. In my considered view, the Rule of natural justice demands fairness of departmental proceeding conducted by the enquiry officer. If the delinquent employee wants to examine any witness and requests the enquiry officer to serve notice upon the said witnesses and also to serve notice upon the Bank Authority to produce the concerned register through which the duties of the constables in Bank was allotted, denial of such opportunity strikes at the root of fairness and impartiality of the enquiry officer. Therefore, the report of the enquiry officer finding the petitioner guilty for misconduct and subsequent order of dismissal from service passed against the petitioner by the Disciplinary Authority are liable to be set aside.



5. The case is remitted back to the enquiry officer with a direction to conduct the enquiry against the petitioner, de-novo, giving opportunity to him to produce the Guard Register and the witnesses named in the written statement of defense filed by the petitioner for examination as defense witnesses in the departmental proceeding.

6. In view of the above order, the order of dismissal as well as appellate authority against the petitioner are quashed and set aside till the completion of de-novo enquiry and fresh departmental action.

7. With the above direction, the instant writ petition is disposed of.

(Bibek Chaudhuri, J)

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