

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.5606 of 2021**

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Shyamjee Rai Son of Late Rajendra Rai Resident of Village- Govinapur, P.s.-  
Chanpatiya, District- West Champaran at Bettiah

... .. Petitioner/s

Versus

1. The State of Bihar
2. The Director General of Police, Bihar, Patna
3. Inspector General of Police, Patna Range, patna
4. The Deputy Inspector General of Police, Patna Division, Patna
5. The Superintendent of Police, Nalanda at Biharsharif
6. The Deputy Superintendent of Police, Nalanda at Biharsharif
7. The Station Head Officer, Deepnagar Police station, District- Nalanda at Biharsharif
8. The Investigating Officer, of Deepnagar P.S. Case No. 15 of 2020

... .. Respondent/s

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**Appearance :**

|                      |   |                                                                 |
|----------------------|---|-----------------------------------------------------------------|
| For the Petitioner/s | : | Mr. Siya Ram Shahi, Advocate<br>Ms. Smita Shreeyash, Advocate   |
| For the Respondent/s | : | Mr. Abhishek Raj Kashyap, Advocate<br>Mr. Md. Nadim Seraj, GP 5 |

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**CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI**  
**ORAL JUDGMENT**

**Date : 27-06-2025**

In the instant writ petition, petitioner has prayed for  
the following reliefs :

*“(i) For issuance of writ in the  
nature of certiorari or any other appropriate writ  
/ writs for quashing of the order dated  
23.10.2020 vide Nalanda District Force Order  
No. 2108 / 2020 contained in Memo no. 6054  
issued under the signature of Superintendent of  
Police, Nalanda, whereby and whereunder he has  
affirmed his earlier order and dismissed the*



*appeal filed by this petitioner in a very mechanical manner and without authority of law and also ignoring the fact that earlier order of punishment has been passed by himself as an disciplinary authority and in spite of that he has acted as an appellate authority over the decision of the disciplinary authority, which is not sustainable at all in the eye of law.*

*(ii) For issuance of a writ in the nature of certiorari or any other appropriate writ for quashing of order dated 24.07.2020 vide Nalanda District Force Order No. 4187/2020 contained in Memo No. 4162 passed by the Superintendent of Police, Nalanda at Biharshariff, in Departmental proceeding No. 18 of 2020 against the Constable No. 1356 as the same has mechanically been passed without following the principle of natural justice as well as without following the provisions as prescribed under Rule-17 of the Bihar Government Servants (Classification, Control and Petition) Rules, 2005.*

*(iii) For issuance of writ in the nature of mandamus for directing and commanding the responsible respondent authority to reinstate the petitioner in the services on his earlier post and give all ancillary and consequential benefits to the petitioner.*

*(iv) For issuance of any other order or orders, which your Lordships may deem fit and proper in the facts and circumstances of the case for which this petitioner is entitled to.”*



2. Petitioner has joined as a Constable on 02.06.2000.

He was involved for the offences under the Excise Act, in particularly offences under Section 37 (A) (C) of the Bihar Amended Excise Act, 2016 and P.S. Case No. 15 of 2020 was registered in *Deepnagar*. It is learnt that he was arrested. Consequently, he was placed under suspension on 28.01.2020 with effect from 19.01.2020. Thereafter, he was subjected to parallel proceedings like criminal and disciplinary proceedings. In the criminal proceedings, it is learnt that he has been acquitted. Insofar as disciplinary proceedings is concerned, charge-memo was issued on 21.02.2020. The inquiry officer submitted report on 05.07.2020. On receipt of inquiry officer's report, disciplinary authority proceeded to issue second show cause notice on 10.07.2020 for which petitioner had submitted reply to the second show cause notice on 17.07.2020. Taking note of these material information, the Superintendent of Police, *Nalanda* proceeded to pass dismissal order on 24.07.2020. Feeling aggrieved by the order of dismissal, petitioner preferred appeal before the Inspector General of Police, Patna Range, Patna and it was dismissed on 23.10.2020. Hence, the present writ petition.

3. Learned counsel for the petitioner submitted that having regard to the acquittal in the criminal case, petitioner is



entitled to be exonerated in the disciplinary proceedings. It is further submitted that in the departmental inquiry charge was not proved insofar as consumption of liquor and he was under intoxication on 18.01.2020 for the reasons that petitioner was not subjected to medical *i.e.* blood and urine tests and only subjected to breath analyzer test. Breath analyzer test was subject matter of criminal proceedings in which he has been acquitted. In the absence of these crucial material information, respondents have proved the charges only on presumption and conjectures. Further, imposition of penalty of dismissal from service, on account of alleged consumption of liquor, would be too harsh for the reasons that the petitioner has already served twenty years of service with reference to his initial appointment on 02.06.2000. In the light of these facts and circumstances, the petitioner has made out a case so as to interfere with the impugned decision of dismissal order. Hence, orders dated **23.10.2020** *vide* Nalanda District Force Order No. 2108/2020 in Memo No. 6054 and **24.07.2020** *vide* Nalanda District Force Order No. 1487/2020 in Memo No. 4162 stand set aside.

4. Matter is remanded to the disciplinary authority to impose penalty other than major penalty. The concerned respondent is hereby directed to reinstate the petitioner within a



period of one month and extend all consequential benefits from the date of dismissal till reinstatement. While imposing other than major penalty, the disciplinary authority is hereby directed to issue a detailed notice to the petitioner and petitioner shall submit his explanation and, thereafter, the disciplinary authority is hereby directed to proceed to impose one of the minor penalty.

5. With the above observation, present writ petition stands allowed in part.

(P. B. Bajanthri, J)

GAURAV S./-

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