

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No 3301 of 2025

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Kumar Amitabh Son of Late Kumar Anand Ballabh Singh, Resident of Shail Anand Kuteer, Near Aluminium Factory, Shivpuri, Phulwari, P.S.- Gardanibagh, District- Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through the Additional Chief Secretary, Home (Police) Department, Govt. of Bihar, Patna.
2. The Under Secretary, Home (Police) Department, Govt. of Bihar, Patna.
3. The Director General of Police, Bihar, Patna.
4. The Inspector General of Police, Muzaffarpur Zone, Muzaffarpur.
5. The Deputy Inspector General of Police, Tirhut Range, Muzaffarpur.
6. The Senior Superintendent of Police, Muzaffarpur.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr Abhinav Srivastava, Sr Advocate with M/s Abhishek, Abhishek Anand, Kumar, Advocates
For the Respondent/s	:	Mr Anirban Kundu, SC XXIV

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CORAM: HONOURABLE MR JUSTICE ARVIND SINGH CHANDEL
ORAL JUDGMENT

Date : 27-06-2025

This petition has been preferred by the petitioner seeking the following reliefs:

“(i) For issuance of writ in the nature of certiorari for quashing of letter No 13744 dated 25.11.2024 issued by the Under Secretary, Home (Police) Department, Government of Bihar, Patna whereby the memorial preferred by the petitioner against the punishment of dismissal has been rejected.

(ii) For issuance of writ in the nature of certiorari for quashing of the order dated 13.01.2024 as contained in Memo No P-1/04-09-53-2021/35 dated 15.01.2024 issued by the Director General of Police, Bihar, Patna whereby the petitioner has been awarded with the punishment of dismissal from service.

(iii) For issuance of writ in the nature of certiorari for quashing of the inquiry report



prepared by the Inquiry Officer as contained in Memo No 7742 dated 23.10.2020.

(iv) For issuance of writ in the nature of certiorari for quashing of Memo No 527 dated 27.02.2019 issued by the Deputy Inspector General of Police, Tirhut Range, Muzaffarpur whereby a decision has been taken to initiate departmental proceeding against the petitioner.

(v) For issuance of writ in the nature of certiorari for quashing of the memo of charge dated 27.02.2019 issued by the Deputy Inspector General of Police, Tirhut Range, Muzaffarpur.

(vi) For necessary direction upon the respondent authorities to pay full back wages since the date of his suspension as the petitioner has not been paid with even subsistence allowance during the period of his suspension, till the date of his reinstatement as the petitioner has not remained gainfully employed during the period he remained under suspension or dismissal from service.

(vii) For necessary direction upon the respondent authorities to pay all the consequential benefits during the period the petitioner remained under suspension and the period under dismissal.

(viii) For issuance of a writ in the nature of mandamus, directing and commanding the concerned respondents to reinstate the petitioner in service taking into consideration that in a most cavalier and arbitrary manner, the petitioner has been dismissed from service though admittedly there is a gross violation of the established procedures of the departmental proceeding.

(ix) For any other appropriate writ/writs be issued, direction/directions be given, order/orders be passed which Your



Lordships may deem fit and proper in the given facts and circumstances of the case.”

2 Brief facts of the case are that at the relevant time, the petitioner was posted as Station House Officer (for brevity, ***the SHO***), Motipur Police Station (for brevity, ***PS***), District – Muzaffarpur. At that time, the Motipur PS was not having its own building rather was running from the premises of erstwhile Motipur Sugil Mills (closed in 1997). The Motipur PS was also not having a proper ***Malkhana*** for storing the liquor and other seized articles. Therefore, the seized articles and record were kept at the residential premises of the SHO, Motipur. On 13.01.2019 when the petitioner was not present in that premises, a raid was conducted and on being searched, illicit liquor and other articles were found there. On being matched, 96.2 liters of excess liquor was found inside the residential premises of the petitioner. It was also found that ***Malkhana*** register was not maintained by the petitioner and station diary has also been found pending. On these backgrounds, an FIR has been lodged against the petitioner bearing Motipur PS Case No 25 of 2019 for the offences under Section 30 (a), 38 (1) (2) of the Bihar Prohibition and Excise Act and Sections 120B/34 of the Indian Penal Code against the petitioner. A departmental enquiry was also initiated against the petitioner. ***Prapatra Ka*** has been served on him vide Annexure



P/8. Enquiry Officer and Presenting Officer were appointed. The Enquiry Officer submitted his enquiry report dated 23.10.2020 (Annexure P/9). It was found by him that all the charges levelled against the petitioner were found proved. On the basis of enquiry report, the Disciplinary Authority passed order dated 13.01.2024 (Annexure P/13) dismissing the petitioner from the services which has also been affirmed by the competent authority whereby the memorial preferred by the petitioner was also dismissed vide order dated 25.11.2024 (Annexure P/15). Hence, this petition has been preferred by the petitioner.

3 It is submitted by the learned counsel for the petitioner that the appointing authority of the petitioner is the Inspector General of Police whereas the departmental proceeding has been initiated by the DIG which is in violation of Rule 17 (4) & (5) of the Bihar Government Servants (Classification, Control & Appeal) Rules. He further submits that during the departmental enquiry, no evidence was put forth by the Presenting Officer which can establish that the petitioner was found with 96.2 liters of excess liquor in his possession. List of documents produced during the proceedings also does not contain the registers which were relied on by the Enquiry Officer to show excess of 96.2 liters of liquor. He further submits that the witness Shyam Narayan Prasad, Sub



Inspector admitted the fact that he was posted at Motipur PS and it was the usual practice to keep the seized articles at the residence of the SHO. The witness Sona Prasad Singh also admitted the fact that the *Malkhana* was handed over to the petitioner by the predecessor of the petitioner Subhash Prasad. It is further submitted by the learned counsel that with regard to the other allegations, i.e., not maintaining the *Malkhana* register as well as recording pending station diary is concerned, there is no evidence available on record on the basis of which these charges can be found to have been proved. Lastly, it is submitted by the learned counsel that till today, the concerned PS is unable to file any charge sheet against the petitioner for which the Motipur PS Case No 25 of 1990 has been registered which also proves innocence of the petitioner.

4 Learned State Counsel opposes the argument raised by the learned counsel for the petitioner and submits that taking into consideration the evidence available on record, all the authorities have passed their orders which do not warrant any interference by this Court.

5 I have heard learned counsel for the parties, perused the documents annexed with the writ petition as well as the counter affidavit and rejoinder.



6 Perusal of charge memo (Annexure P/8) clearly shows that mainly three allegations have been levelled against the petitioner, (1) on the date of incident, i e, 13.01.2019, 96.2 liters of excess liquor was found in the official residence of the petitioner, (2) petitioner has not maintained *Malkhana* register and also not made entries of seized liquor in the said register and (3) station diary entry was pending since 02.01.2019.

7 To establish the case of the Department, total five witnesses were examined before the Enquiry Officer. So far as the first allegation, i e, excess 96.2 liters of illicit liquor is concerned, the Police Inspector Manoj Kumar, who conducted the raid on 13.01.2019 has been examined before the Enquiry Officer. In his statement, he deposed that at the time of incident, the petitioner was not present. Thereafter, the official residence of the petitioner was opened. It was found that total 96.2 liters of excess alcohol was kept there. During cross examination, this witness stated that the liquor which was found in the house of the petitioner was matched with the registers, FIRs and seizure memos. However, he has not stated that from which FIRs or seizure memos, he has matched the seized liquor.

8 Undisputedly, the PS was working in the premises of sugar mill. There is also no dispute on the point that *Malkhana*



was not available in the said premises and the residence of the SHO was used as *Malkhana*. The witness Sona Prasad Singh also admitted the fact that in the said premises, one room of the then SHO (predecessor of the petitioner) was also there wherein also the seized article of his tenure was found. Thus, it is quite clear that the residence of the petitioner as well as the residence of Subhash Prasad, the then SHO was being used to store the seized liquor as no *Malkhana* was available in the premises. The witness, SI Shyam Narayan Prasad, in his cross examination, also admitted the fact that the liquor, which was found in the premises of the petitioner, was a liquor of the *Malkhana* of the said PS. It is also pertinent to mention here that it was also found that other registers in which the entries of seized liquor were being made, in absence of charge being handed over as a means of temporary arrangement, those registers were never produced during the departmental enquiry. It is also not in dispute on the point that being SHO, he does not own the *Malkhana* and he was neither provided specific details of liquor seized in connection with the previous FIR. Therefore, the 96.2 liters of excess liquor cannot be aid to be illegally stored liquor.

9 With regard to the other charges, i e not maintaining the *Malkhana* register and stopping the entries in the station diary



is concerned, none of the witnesses, who were examined before the Enquiry Officer, has stated anything in this regard in their statements. Therefore, the finding of the Enquiry Officer that these charges are also found proved is not in accordance with the evidence available on record rather it was based upon conjectures and surmises only. The authorities, while passing the orders, did not consider these aspects.

10 Therefore, on these grounds, I am of the view that all the impugned orders are liable to be set aside.

11 Accordingly, the petition is allowed.

12 The orders impugned dated 13.01.2024 (Annexure P/13) and 25.11.2024 (Annexure P/15) are set aside.

13 The petitioner is entitled to get his reinstatement with all consequential benefits which will be done within three months from the date of receipt of a copy of this order.

(Arvind Singh Chandel, J)

M.E.H./-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	04.07.2025
Transmission Date	NA

