

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.164 of 2019

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Mahendra Prasad S/o Shri Kapildeo Sharma, R/o Mohalla- Maurya Vihar,
P.O.- Khagaul, P.S.- Phulwari Sharif, District- Patna.

... .. Petitioner/s

Versus

1. The State Of Bihar through its Chief secretary
2. The Chief Secretary to the Government of Bihar, Patna.
3. The Principal Secretary to the Government of Bihar, Department of Revenue and Land Reforms, Old Secretariat Building, Patna
4. The In Charge Chairman, Bihar Bhudan Yagya Committee, Patna cum Chairman, Revenue Board, Government of Bihar, Department of Revenue and Land Reforms, Old Secretariat Building, Patna.
5. The Bihar Bhudan Yagnya Committee, Officers Flat No. 10/11/12, 84 Set, Punaichak, Patna- 800023, through its In charge Chairman-cum Chairman, Revenue Board, Government of Bihar, Department of Revenue and Land Reforms, Old Secretariat Building, Patna.
6. The then Previous Chairman, Bihar Bhudan Yagnya Committee, Shri Shubhmurti, Officers Flat No. 10/11/12, 84 Set. Punaichak, Patna-800023
7. Shri Kedar Nath Dutt, Office Secretary (Karyalay Mantri), Bihar Bhudan Yagnya Committee, Head Office-Road No. 34, Quarter No. 2/A, Gardanibagh, P.S. Gardanibagh, District-Patna 800002
8. Shri Mohammad Ishrafil, office Secretary (Karyalay Mantri), Bihar Bhudan Yagnya Committee, Head Office-Road No. 34, Quarter No. 2/A, Gardanibagh, P.S. Gardanibagh, District-Patna 800002
9. Shri Phool Kumar Singh, Office Assistant (Karyalay Sahayak) Bihar Bhudan Yagnya Committee, Head Office-Road No. 34, Quarter No. 2/A, Gardanibagh, P.S. Gardanibagh, District-Patna 800002
10. Shri Rameshwar Prasad Verma, Head Inspector (Pradhan Nirikshak-working even after 15 years of retirement) Bihar Bhudan Yagnya Committee, Head Office-Road No. 34, Quarter No. 2/A, Gardanibagh, P.S. Gardanibagh, District-Patna 800002
11. Shri Krishna Kumar Singh, Office Secretary, District- Bhudan Office, Gopalganj, P.S.- Gopalganj, District-Gopalganj

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Krishna Ballabha Sharma, Advocate
For the State	:	Mr.Shailendra Kumar Dwivedi, AC to AAG 12
For the Res. Nos. 7 to 11:	:	Mr. Rajnikanth Singh, Advocate



CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
CAV JUDGMENT

Date : 21-07-2025

Heard the parties.

2. The petitioner is aggrieved with the order as contained in Letter No. 25/017-940 dated 28.02.2018 passed by the then Chairman, Bhoodan Yagna Committee, Patna, whereby he has been inflicted with the punishment of dismissal from service. The petitioner also seeks quashing of the order as contained in Letter No. 10 Kha/014-841 dated 28.11.2014 issued by the then Chairman, Bhoodan Yagna Committee, whereby the petitioner was placed under suspension with effect from 27.11.2014 and directed him to hand over the charge of his office to one Shri Ram Narayan Lal Karn, Office Secretary, Bihar Bhoodan Yagna Committee.

3. The materials available on record highlighted the history and establishment of the Bihar Bhoodan Yagna Committee, which is a creation of the State established under the Bihar Bhoodan Yagna Act, 1954. The very object of the Act, 1954 was to facilitate the donation of lands in connection with the Bhoodan Yagna initiated by Shri Acharya Vinoba Bhave and to provide for the settlement of such lands with landless persons or with a village community, Gram



Panchayat, or with a Co-operative Society organised by the Bhoodan Yagna Committee. Bhoodan Yagna initiated by Shri Acharya Vinoba Bhave was meant to provide for the settlement of such lands with landless persons or with a village community, Gram Panchayat or with a Co-operative Society organised by the Bhoodan Yagna Committee. The Chairman of the Bihar Bhoodan Yagna Committee is to be appointed by the Cabinet of the Government of Bihar and he is the highest authority under the Bhoodan Yagna Committee and his order is said to be final and there is no provision of appeal. Bihar Bhoodan Yagna Committee established by the State Government has been declared to be a body corporate and shall have perpetual succession and a common seal with power to acquire, hold and dispose of property; both movable and immovable, and shall by the said name, sue and be sued.

4. In the aforesaid premise, the Committee falls under the definition of the State as defined under Article 12 of the Constitution of India. Section 24 of the Bihar Bhoodan Yagna Act, 1954, the power is vested with the Committee to make regulation for the matters mentioned therein, including the matters for appointment of officers and staff of the Committee. In exercise of such power a Regulation was also



framed and approved in the meeting of Bhoodan Yagna Committee in 17th May, 1960.

5. The petitioner at the relevant time, in the year 2014, holding the post of Office Secretary (Karyalay Mantri) was directed to submit the original Gift Deeds (*dan patra*), Original Certificates and Confirmation Register in relation to Bhojpur district Bhoodan land before the head office of the Bihar Boodan Yagna Committee for its digitization. On receipt of the communication, as contained in Annexure-2 to the writ petition, the petitioner made a request to authorise any person to receive the required documents. In pursuant thereto, one Yugal Kishore Verma was authorised; since the list of the documents were not prepared the required documents could not be handed over to the authorised persons leading to issuance of letter dated 06.08.2014 by the Chairman of the Committee with a clear instruction to get the list of the documents duly prepared and hand over to the authorised persons. Finally, all the required documents, as was directed by the Chairman, was handed over to the authorised persons and they took away all such required documents.

6. In course of handing over of the documents since the authrorised person noted in the file that they were taking



charge to the aforesaid documents, the same was objected by the petitioner to the extent of using the term of 'taking charge'. This incidence led to issuance of show cause notice dated 08.09.2014 (Annexure-8) directing the petitioner to file his explanation as to on what basis the petitioner has apprehended wrongful use of documents at the level of the Chairman. It is made clear that if the explanation of the petitioner shall not be found satisfactory, disciplinary proceeding may be initiated against him. In response thereto, the petitioner immediately responded on 17.09.2014 and requested to grant sufficient time for submitting the detailed show cause. Subsequently a detailed show cause was submitted on 26.11.2014, copy of which is marked as Annexure-9/A. The petitioner in his reply explained the pitiable condition of the Bhoodan's employees and sorry state of affairs prevailing in the Committee, apart from the financial constraint, suppression and oppression of dedicated and honest employee including the petitioner.

7. On 07.11.2014 vide letter No. 10 kha/014-814 issued a further show cause notice on the alleged ground of indiscipline and charge of inviting one Jagdish Sharma, former Office Secretary, District Bhoodan Office, Bhojpur for



putting signature on the left over counterfoil office copies of certificates and thereby made tampering with the certificates without the order of the Chairman. The afore noted show cause was also responded by the petitioner by explaining the entire position, however the same did not satisfy the Chairman of the Committee and the petitioner was placed under suspension vide impugned letter No. 10 kha/014-814 dated 28.11.2014 with effect from 27.11.2014. The head office of the petitioner had been fixed at Central Office Bhodan office, Patna.

8. It is the contention of the petitioner that the impugned order of suspension narrates that the explanation of the petitioner was found unsatisfactory which led to issuance of such order but it has never been clarified and assigned any reason as to why the explanation of the petitioner was not accepted. On being aggrieved, the petitioner approached this Court by filing CWJC No. 225 of 2015 challenging his order of suspension raising various grounds, including the ground of malafide and extraneous consideration, as also on account of voice being raised against the illegality committed by the authorities, especially the then Chairman of the Committee. While the writ petition was pending consideration, in the



meanwhile, the petitioner was served with the charge memo dated 24.02.2015. The petitioner submitted his detailed reply which was duly considered by the Enquiry Officer and finally the enquiry report was submitted on 02.06.2015. A second show cause notice was served on the petitioner, which was also duly responded by the petitioner by writing various points. The disciplinary authority thereafter passed the order of dismissal on 30.06.2015 which was also made the subject matter of challenge in the afore noted writ petition.

9. The Court while examining the correctness of the impugned order of dismissal on being found that the same suffers from manifest illegality, bereft of any reason, inasmuch as, the order passed by the disciplinary authority is a cryptic and two lines order, set aside the same and relegated the proceeding to the stage of issuance of second show cause. The Court further directed that the disciplinary authority, after considering the petitioner's explanation to the second show cause, would pass fresh reasoned order, in accordance with law. Till passing of the final order, the petitioner shall be deemed to be under suspension. The matter came up for consideration again before the Chairman Yagna Committee and again show cause explanation of the petitioner came to be



rejected and earlier order of dismissal came to be affirmed.

10. Learned Advocate for the petitioner, Mr. Krishna Ballabha Sharma referring to the various annexures has submitted that the respondent no. 6 had been indulged in corruption and corrupt practices contrary to the noble ideals and high principles of Acharya Vinoba Bhave and he was also found personally responsible of official irregularities; several complaints were made with multifarious allegations, including the allegation of providing benefits to the land *mafias* through the private NGO “Samuday” being run and managed by the then Chairman himself, the petitioner has all along been raising noise against irregularities. The entire action of the respondent right from very inception, imposition of dismissal is said to be actuated with utter vendetta and malafide, keeping the petitioner under suspension without there being any cogent reason and providing no subsistence allowance is itself a proof of malafide and prejudice mind.

11. To support the aforesaid contention, reference has also been made to Annexures 25A, 25B, 25C, 25D to demonstrates that the public grievance authority found fault with the conduct of the then Chairman. Referring to the order passed by this Court in the earlier round of litigation in CWJC



No. 225 of 2015, it is vehemently contended that once the order of dismissal came to be set aside and the matter has been relegated to the respondent no. 6 afresh for consideration of show cause explanation submitted by the petitioner, the rejection of the show cause and affirming the earlier order of dismissal is completely in defiance of the order of this Court and a contemptuous one. Once the earlier order of dismissal lost its efficacy and existence pursuant to the order of this Court, it cannot be revived by the authorities. Taking this Court through the impugned order dated 28.02.2018 as contained in Annexure-24 to the writ petition, it is further contended that an empty formality has been done and save and except the denial of the ground taken by the petitioner, there is no discussion as to why it has not been accepted. It is lastly contended that the impugned order of dismissal is wholly without jurisdiction, inasmuch as the Chairman alone is not the competent authority, the order of dismissal ought to be passed either by the Committee or by the Minister (Mantri) as nominated by the Committee, who shall be authorised to regulate the proceeding in relation to appointment, disciplinary proceeding and dismissal of the employee.

12. Mr. Shailendra Kumar Dwivedi, learned



Advocate for the State submitted that since the Committee has already been dissolved, therefore presently it is not being represented by any of the lawyer engaged by the Committee. However, a counter affidavit came to be filed on behalf of the respondent Nos. 4 to 9, apart from the respondent authorities of the State Government. Referring to the averments made in the counter affidavit filed on behalf of the respondent Nos. 4 to 9, it is contended that the very departmental proceeding was initiated against the petitioner due to his misconduct and indiscipline which came to be proved leading to passing of the dismissal order. The entire thrust of the petitioner is to picturise the tainted conduct of the then Chairman of the Committee. However, this has nothing to do with the order under challenge. The petitioner defied and violated the direction of the respondent no. 6, and thereby caused grave indiscipline. Besides, the grave indiscipline, the petitioner has made baseless allegation against the then Chairman and his wife of running unauthorized NGO. It has also been submitted that in the earlier round of litigation, the order of suspension did not interfere and the learned Court was pleased to set aside only the earlier dismissal order and directed the disciplinary authority to consider the grounds raised by the petitioner in



his reply to the second show cause.

13. In pursuant to the order of this Court passed in CWJC No. 225 of 2015, the impugned order came to be passed after giving proper consideration to the reply of the petitioner. Moreover, the petitioner has failed to establish that there is any procedural lapses in arriving the order under challenge and it is not the case of the petitioner that the principles of natural justice has been violated or the statutory regulation has not been adhered to in passing the impugned order.

14. A supplementary counter affidavit also came to be filed on behalf of respondent no. 3 and it is apprised that on account of dissolution of the Bhoodan Yagna Committee the consequent transfer of its duties, power and function to the Board of Revenue, Bihar, Patna, thus the respondent Nos. 4 and 5 are duly vested with the authority to take a decision regarding governance of the service of the petitioner including the termination or disciplinary action against the petitioner in accordance with law. So far the payment of admissible honorarium to the employees working in the Committee, it has been made clear that the same rests upon the policy decision. Referring to paragraph no. 10 of the supplementary



counter affidavit, it is submitted that certain amount mentioned therein has been approved with a condition that the honorarium shall be paid to those who have been appointed in proper manner and rather actually disposing/doing the works of the Bhoodan Yagna Committee. A detailed list of the employees working with the Bhoodan Yagna Committee have been sought from the Revenue Board.

15. Having heard the learned Advocates for the respective parties and after going through the materials available on record, it is made clear that this Court is only concerned with the legality of the impugned order as challenged in the present writ petition. It is not in dispute that the matter which led to initiation of disciplinary proceeding preceded with the suspension order was initiated on account of the alleged disobedience of handing over of required documents at the level of the petitioner. It is also not disputed that the certain query has been made at the level of the petitioner with unnecessary remarks against the maladministration and malfunctioning of the Bihar Bhoodan Yagna Committee which caused indignity and disrespect to the then Chairman. However, this is the fact that all the documents which were quite voluminous were finally handed



over to the authorised persons of the Committee and the work of the Committee was never hampered. The petitioner at the relevant time working as Office Secretary (Karyalay Mantri) was subjected to show cause notice which was duly replied, though it did not find favour resulting into his suspension.

16. The copy of the “Regulation” which has been placed on record as Annexure-C series to the counter affidavit filed by the respondent No. 3, and has been referred to, postulates that to regulate the proper functioning of the Committee, the Committee is authorized to nominate any member as Mantri who shall discharge their duty till the tenure of the Committee. It is the Mantri who shall regulate functioning of the officers and employees including the matters related to appointment, leave, termination and disciplinary action. There is no confrontation to the statutory prescription as provided under Bihar Bhoodan Yagna Committee Act, 1954 that the Committee shall consist of Chairman and such number of members which shall not be less than 4 and more than 9, as the State Government may determine. The Chairman and the members of the Committee shall be appointed by the State Government. The term of the office of the Chairman and the members of the Committee



shall be prescribed for four years from the date of publication of their names in the official gazette and shall include any further period which may elapse between expiration of the said period of four years and the date of the publication in the official gazette of the names of the Chairman and the members of the next succeeding Committee.

17. From reading of the Bihar Bhoodan Yagna Act, 1954 as also the Rules 1955 and the Regulation which was duly approved by the Bhoodan Yagna Committee in the year 1960, left no confusion that the Chairman is to be nominated by the State, who shall preside over the meeting and call for the special meeting whenever he thinks fit. Power of appointment and regulating the disciplinary action and dismissal of an employee was vested with the Committee constituted under “Bhoodan Yagna Committee Act, 1954” or the Mantri nominated by the members of the Committee. Even if it is assumed that the Chairman, being the disciplinary authority had power to initiate disciplinary proceeding against the officers and employee but in all circumstances either it must have the sanction/approval of the Committee or in case there is no specific procedures prescribed for regulating disciplinary proceeding, it must be regulated under the



disciplinary rules at par with the government employees. Thus, in that situation, the rules which have been framed under the Bihar Government Servants (Classification, Control and Appeal) Rules, 2005 that cannot be given a complete go by, at least, in principle.

18. The contention of the respondent that since in the earlier round of litigation, only the impugned order of dismissal came to be set aside and the matter was relegated, hence the petitioner is precluded to challenge the initiation of the departmental proceeding, including suspension order and the infirmities, which have been crept before passing of the impugned order, in the opinion of this Court, is also not tenable. Since the legality of the order of suspension and the enquiry report has not been adjudicated and the Court *prima facie* on being satisfied that the impugned order is wholly non speaking and cryptic, set aside the order, it cannot deprive the delinquent to challenge the very initiation of the disciplinary proceeding in the subsequent round of litigation, if the subsequent order is *per se* illegal and the disciplinary authority has come out with the same order of punishment.

19. The materials available on record clearly suggest that not even a single mandatory prescription has been



followed in initiating the disciplinary proceeding or inflicting the punishment. There is neither a charge memo disclosing distinct imputation nor the list of documents by whom charges are proposed to be sustained. There is neither any appointment of the Presenting Officer who brought the evidences before the Enquiry Officer to prove the charges nor the consideration of the defence statement of the petitioner by the Conducting Officer. It also does not appear to this Court as to whether the second show cause notice was served with the enquiry report, which also vitiates the subsequent disciplinary proceeding on account of complete violation of the principles of natural justice.

20. The Court time and again reinforced the strict observance of principle of fair play in action, in departmental proceeding, before taking action entailing adverse penal consequences such as loss of livelihood. It would be worth benefiting here to quote relevant paragraphs of the decision rendered by the Apex Court in ***Sawai Singh vs State Of Rajasthan [(1986) 3 SCC 454]***:

“16. It has been observed by this Court in Surath Chandra Chakrabarty v. State of West Bengal that charges involving consequences of termination of service must be specific, though a departmental enquiry is not like a criminal trial as was noted by this Court in the case of State of A.P. v. S. Sree



Rama Rao and as such there is no such rule that an offence is not established unless it is proved beyond doubt. But in a departmental enquiry entailing consequences like loss of job which now-a-days means loss of livelihood, there must be fair play in action, in respect of an order involving adverse or penal consequences against an employee, there must be investigations to the charges consistent with the requirement of the situation in accordance with the principles of natural justice in so far as these are applicable in a particular situation.

17. The application of those principles of natural justice must always be in conformity with the scheme of the Act and the subject-matter of the case. It is not possible to lay down any rigid rules as to which principle of natural justice is to be applied. There is no such thing as technical natural justice. The requirements of natural justice depend upon the facts and circumstances of the case, the nature of the enquiry, the rules under which the Tribunal is acting, the subject-matter to be dealt with and so on. Concept of fair play in action which is the basis of natural justice must depend upon the particular lis between the parties. (See K. L. Tripathi v. State Bank of India). Rules and practices are constantly developing to ensure fairness in the making of decisions which affect people in their daily lives and livelihood. Without such fairness democratic governments cannot exist. Beyond all rules and procedures that is the sine qua non."

21. Further keeping the petitioner under suspension for such a long period since 28.11.2014 till the impugned order dated 28.02.2018 came to be passed, without extending



the subsistence allowance; strengthen the submission of the petitioner that he was subjected to oppressive behaviour at the hands of the then Chairman and the very issuance of the order of suspension and the initiation of the disciplinary proceeding which led to passing of the impugned order is actuated with *malafide* and prejudice mind.

22. It would suffice to observe that existence of a real danger of bias, would vitiate the administrative action but fanciful allegations of bias would not; it must be determined on the facts and circumstances of each case. It would be apt and proper to quote “ *The test, therefore, is as to whether a mere apprehension of bias or there being a real danger of bias and it is on this score that the surrounding circumstances must and ought to be collated and necessary conclusion drawn therefrom - In the event however the conclusion is otherwise inescapable that there is existing a real danger of bias, the administrative action cannot be sustained: If on the other hand, the allegations pertaining to bias is rather fanciful and otherwise to avoid a particular court, tribunal or authority, question of declaring them to be unsustainable would not arise. The requirement is availability of positive and cogent evidence and it is in this context that we do record*



our concurrence with the view expressed by the Court of Appeal in Locabail case.”[Vide: (2001) 1 SCC 182: Kumaon Mandal Vikas Nigam Ltd vs Girja Shankar Pant & Ors]

23. Coming to the impugned order, this Court finds that though in the earlier round of litigation, after setting aside the order of dismissal, the matter was relegated to the Chairman to consider the show cause reply of the petitioner afresh but similar mistake has been done, inasmuch as, there is no discussion and deliberation as to why the reply to the second show cause of the petitioner is not accepted. Though the grounds taken by the petitioner have been summarily noted but it came to be turned down by holding it either baseless, wrong and unacceptable. To hold that the cause shown can be summarily rejected in one line by saying that it was not satisfactory or acceptable is held to vesting completely arbitrary and canalise powers in the authority. There must be at least a brief analysis of the defence/grounds supported by reasons while it was not acceptable. Since the entire departmental proceeding has been initiated without following the rules, regulation and *de hors* the principles of natural justice, the impugned order, in the opinion of this Court, is *per se* illegal and unsustainable in law. Accordingly,



the same stands set aside.

24. Since the Committee has already been dissolved and now the entire affairs are being looked into by the officials of the Revenue Department, this Court is left with only option to direct the respondent Nos. 3, 4 and 5 to ensure the admissible consequential benefits, preferably within a period of 12 weeks from the date of receipt/production of a copy of this order, in accordance with law.

25. The application stands allowed.

26. Pending application, if any, also stands disposed.

(Harish Kumar, J)

Anjani/-

AFR/NAFR	
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