

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Letters Patent Appeal No.186 of 2025**

**In**  
**Civil Writ Jurisdiction Case No.12763 of 2018**

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1. The State of Bihar
  2. The Principal Secretary, Road Construction Department, Govt. of Bihar, Patna.
  3. The Joint Secretary, Road Construction Department, Govt. of Bihar, Patna.
  4. The Deputy Secretary, Road Construction Department, Govt. of Bihar, Patna.

... .. Appellant/s

Versus

Shardendu Bhushan Son of Sri Shivji Singh Resident of House No.- E/3  
Phase- II, Ashiana Nagar, P.S.- Rajiv nagar, District - Patna- 800001,  
Suspended at Assistant Engineer, Road Construction Department,  
Government of Bihar, Patna.

... .. Respondent/s

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**Appearance :**

For the Appellant/s : Mr. Santosh Kumar Mishra, AC to SC 26  
For the Respondent/s : Mr. Manoj Kumar Ambastha, Advocate

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**CORAM: HONOURABLE THE ACTING CHIEF JUSTICE**

**and**

**HONOURABLE MR. JUSTICE PARTHA SARTHY**

**ORAL JUDGMENT**

**(Per: HONOURABLE MR. JUSTICE PARTHA SARTHY)**

**Date : 14-05-2025**

**Re: I.A. no. 2 of 2025**

The instant application has been filed on behalf of the  
State of Bihar/Appellant for condoning the delay of 99 days in  
filing of the instant appeal.

2. Having heard learned counsel for the parties and  
having perused the contents of the petition, the Court is satisfied  
that the appellant has made out a case for condonation of delay.

The delay in filing of the appeal is condoned.



3. I.A. no. 2 of 2025 stands allowed.

**Re:L.P.A. no. 186 of 2025**

4. Heard learned counsel for the parties.

5. The instant appeal has been preferred by the appellant against the judgment dated 7.10.2024 passed by the learned Single Judge whereby while allowing CWJC no. 12763 of 2018, he was pleased to set aside the order contained in notification no. 8643(S) Patna, dated 20.11.2018 of the Deputy Secretary (Vigilance), Road Construction Department, Bihar whereby the writ petitioner/respondent was dismissed from service and also quashed the order contained in notification no. 1065(S) dated 29.1.2019 issued under the signature of the Deputy Secretary (Vigilance), Road Construction Department, Bihar whereby the review preferred by the respondent was rejected.

6. The relevant facts, in brief, are that on 30.6.2015 while posted as an Assistant Engineer, Road Sub-Division Hilsa Nalanda, the respondent was made accused in an FIR being Special Vigilance Unit P.S. Case no. 1/2015 registered under the Prevention of Corruption Act on the allegation of possessing assets disproportionate to his known source of income.

7. The respondent was placed under suspension on 3.8.2015, a departmental proceeding was initiated against him



vide resolution dated 9.10.2015 and he was served with a charge sheet with the charge mentioned in Prapatra 'Ka'. The charge against respondent was that on inquiry and verification, the respondent had been found to be in possession of assets disproportionate by Rs. 2,77,79,000/- to his known source of income. As such it was stated that the same showed the respondent to be guilty of misconduct and misdemeanor.

8. On perusal of the record, it transpires that the departmental proceeding having been initiated vide resolution dated 9.10.2015, the matter was referred by the Disciplinary Authority to the Inquiry Officer who in his order dated 5.11.2015 took note of the fact that the relevant documents ie (a) show cause notice given to the officer concerned, (b) reply to the show cause notice filed by the officer, (c) the departmental opinion given on the reply to the show cause notice filed by the officer, were not available in the records and as such the department was directed to provide the same. Another reminder was given for the aforesaid documents by the Inquiry Officer by his order dated 23.11.2015 and the same not having been made available, on 4.12.2015 the records were returned to the Disciplinary Authority to send the same after completing the required documents in the concerned file.



9. It further transpires that enclosing the copy of the chargesheet in Prapatra 'Ka', a show cause notice was issued to the respondent on 6.1.2016 asking him to file a reply to the same. On a reply having been filed by the respondent, the inquiry proceeded and the Departmental Inquiry Commissioner in his report dated 3.8.2017 found the charge against the respondent to have been proved. Enclosing a copy of the inquiry report, a second show cause notice was issued to the respondent to which he filled his reply on 12.12.2017. Having perused the same, the respondent came out with the order of punishment dated 20.11.2018 dismissing the respondent from service. The review filed by the respondent was also rejected by order dated 23.1.2019.

10. On the orders of punishment having been challenged by the respondent in the writ application the learned Single Judge taking note of the procedure as laid down in Sub Rules 3, 4 and 5 of Rule 17 of the Bihar Government Servants (Classification, Control and Appeal) Rules, 2005 ('CCA Rules' in short) not having been followed, by his judgment dated 7.10.2024 proceeded to set aside both the order of punishment dated 20.11.2018 as also order dated 29.1.2019 rejecting the review filed by the respondent. It is against this judgment dated



7.10.2024 allowing the writ application that the instant appeal has been preferred by the State of Bihar/appellant.

11. It is submitted learned counsel appearing for the appellant that the learned Single Judge failed to consider Rule 17 in the right perspective as finding on the written statement of defence is not required before the matter being referred to the Inquiring Authority. It was further submitted that the procedure laid down under Rule 17 of the CCA Rules having been fully complied with, the learned Single Judge erred in allowing the writ application.

12. In response, it is submitted by learned counsel appearing for the respondent that there was clear procedural irregularity in so far as the disciplinary authority had not followed the procedure laid down under Rule 17 of the CCA Rules. There is no illegality in the order of the learned Single Judge and the instant appeal be dismissed.

13. Heard learned counsel for the parties and perused the material on record.

14. Bereft of unnecessary details, it may be stated here that on the records having been returned by the Inquiry officer to the Disciplinary Authority, enclosing copy of the chargesheet in Prapatra 'Ka' a show cause notice was issued to the



respondent on 6.1.2016 asking him to file his reply within a period of 7 days. The respondent filed his detailed reply, where after the matter was referred to the Departmental Inquiry Commissioner for conducting any inquiry.

15. Rule 17 of the CCA Rules provides the procedure for imposing major penalties. Rule 17(4) provides that the disciplinary authority shall provide to the Government servant a copy of the article of charge, statement of imputations of misconduct or misbehaviour and the list of documents and witnesses by which each article of charge is proposed to be sustained. Thereafter the Government servant shall be required to submit a written statement of his defence. Rule 17(5) further provides that on receipt of the written statement of defence the disciplinary authority may himself inquire into such articles of charge which are not admitted by the Government servant or he may appoint an inquiry authority under Rule 17(2) for the purpose. Thus it may be stated here that as per Rule 17(4) and (5) of the CCA Rules, on receipt of the written statement of defence from the Government servant (respondent herein), the disciplinary authority may either himself inquire into such articles of charge or appoint any inquiry authority for the said purpose.



16. The learned Single Judge came to the finding that having obtained the written statement of defence from the respondent on the chargesheet contained in Prapatra 'Ka', the Disciplinary Authority failed to apply its independent mind whether to proceed to inquire into the articles of charges himself or to appoint any inquiry authority for the said purpose.

17. In this view of the matter, the learned Single Judge proceeded to set aside the order of punishment as also the order rejecting the review and allowed the writ application giving liberty to the department to take action afresh if the cause of action still survives, with the further direction that in case proceeding is initiated to conclude the same within a period of 6 months.

18. This Court finds no illegality in the order of the learned Single Judge nor any merit in the appeal preferred by the appellant-State of Bihar.

19. The appeal is dismissed upholding the order of the learned Single Judge. However, with the modification that the order of punishment dated 20.11.2018 and the review preferred by the respondent which was rejected vide order dated 29.1.2019, both having been set aside, the matter is remanded to the Disciplinary Authority, who shall proceed against the



respondent in accordance with the procedure laid down under CCA Rules as also the judgment of the Hon’ble Supreme Court in **Roop Singh Negi versus Punjab National Bank and others [(2009) 2 SCC 570]** and **Punjab National Bank and others versus Kunj Bihari Mishra [(1998)7 SSC 84]** from the stage from where the vulnerability surfaced and conclude the proceedings against the writ petitioner/respondent within a period of 6 months.

20. The appeal stands dismissed, however, with the above modification.

**(Ashutosh Kumar, ACJ)**

**( Partha Sarthy, J)**

Bibhash/-

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