

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7308 of 2019

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Mohan Singh Vill.- Bhimalapur, P.o.- Yashodamatt, P.s.- Kanti, Distt.-
Muzaffarpur

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary Panchayati Raj Department,
Govt. of Bihar, Patna
2. The Principal Secretary Panchayati Raj Department, Govt. of Bihar, Patna
3. The Divisional Commissioner Tirhut Division, Muzaffarpur
4. The Collector cum District Magistrate Muzaffarpur

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Shashi Bhushan Singh
For the Respondent/s	:	Smt. Archana Meenakshee (GP6)
		Mr. Rama Veer Prawar, AC to GP6
		Mr. Harish Singh

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CORAM: HONOURABLE MR. JUSTICE ARVIND SINGH CHANDEL
ORAL JUDGMENT

Date : 20-08-2025

Heard learned counsel for the petitioner and learned
counsel appearing on behalf of the respondents-State.

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

(i) That, for issuance of an appropriate writ in the nature of certiorari for quashing the enquiry report submitted by enquiry officer on 09.01.2017 and also quashing memo no. 891 dated 28.04.2017 and order dated 06.11.2018 issued under the signature of respondent nos. 4 and 3 whereby respondent no. 4 has passed order for dismissal



whereas respondent no.3 has approved the same, the said orders are in contravention procedure for imposing major penalties contemplated in clause 17 of Bihar Government Servants (Classification, Control & Appeal) Rules, 2005 as well as orders suffer from several infirmities on facts and law.

(ii) For issuance of an appropriate writ in the nature of mandamus commanding and directing the respondent authorities to reinstate the petitioner in service with all consequential monetary benefit.

(iii) For issuance of any other writ/direction/directions for which the writ application shall be found entitled.”

3. The facts of the case is that at the relevant time, the petitioner was posted as Panchayat Secretary. *Prapatra* ‘K’ (Annexure-1) has been issued against him. Along with the *Prapatra* ‘K’, no list of witnesses and list of documents upon which the department has relied, has been annexed nor supplied to the petitioner. However, the enquiry officer also without recording of any the evidence of any of the witness and without tendering any of the document from the department or the presenting officer only on the basis of the submission made by



the presenting officer as well as on the basis of reply of the show cause as submitted by the petitioner arrived at the conclusion that all the charges levelled against the petitioner are duly proved. Subsequently, on the basis of the said enquiry report, the disciplinary authority vide its order dated 28.04.2017 (Annexure-4) passed the order of dismissal of the petitioner. The said order has been assailed by the petitioner. The appeal preferred by him has also been rejected by the Divisional Commissioner vide its order dated 06.11.2018 (Annexure-6) and hence, this writ petition.

4. Learned counsel for the petitioner submits that along with the *Prapatra* 'K' (Annexure-1) no list of witnesses and list of documents have been prepared and provided to the petitioner. Therefore, there is a clear cut violation of Rules 13 and 17 of the Bihar Government Servants (Classification, Control & Appeal) Rules, 2005. He further submits that without recording any statement of the witnesses or without tendering any of the documents by the department, the enquiry officer wrongly arrived at the conclusion that all the charges levelled against the petitioner are duly proved and on the basis of such type of enquiry report, the disciplinary authority passed the order of dismissal, which is liable to be set aside.



5. Learned counsel for the respondents-State opposes the arguments raised by the counsel appearing on behalf of the petitioner and submits that as the serious allegation has been levelled against the petitioner, which has been duly proved, therefore, the petitioner is not entitled to get any relief from the Court.

6. Heard learned counsels appearing for both the parties and perused the documents annexed with the petition as well as counter affidavit submitted by the respondents.

7. Perusal of the *Prapatra* 'K' (Annexure-1) clearly shows that along with the *Prapatra* 'K' no list of witnesses and list of documents have been prepared and provided to the petitioner. The enquiry report dated 09.01.2017 (Annexure-P/3) further shows that during course of enquiry, no witness has been examined by the department nor any document has been tendered by the department even after that the enquiry officer arrived at the conclusion that all the five charges, which has been levelled against the petitioner, are found proved. The above finding recorded by the enquiry officer is only based upon the submission of the presenting officer and on the basis of reply of the show cause submitted by the petitioner. Thus, it is quite clear that the finding, as recorded by the enquiry officer, is



not based upon any evidence or materials available on record. Therefore, on this ground alone, the enquiry report as well as order of dismissal and consequential orders passed by the Appellate Authority are liable to be set aside.

8. Accordingly, the writ petition is allowed.

9. The impugned order dated 09.01.2017 (Annexure-P/3) and the appellate order dated 06.11.2018 (Annexure-P/6) are hereby quashed. The respondents are directed to reinstate the services of the petitioner within a period of two months with all consequential monetary benefits.

(Arvind Singh Chandel , J)

shailendra/-

AFR/NAFR	NA
CAV DATE	NA
Uploading Date	21.08.2025
Transmission Date	NA

