

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.14304 of 2013**

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Rameshwar Bhagat Son of Late Bhagwat Bhagat Resident Of  
Village/Mohalla - Sonout, Saraiya P.S. - Muffasil, District - Gaya  
... .. Petitioner/s

Versus

1. The State of Bihar through Chief Secratary, Govt. of Bihar, Patna.
  2. The Principal Secretary, General Administration, Govt. Of Bihar, Patna
  3. The Joint Secretary, General Administration , Govt. Of Bihar, Patna
  4. The District Magistrate, Darbhanga
  5. The Sub Divisional Officer, Darbhanga Sadar, Darbhanga
- ... .. Respondent/s

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**Appearance :**

For the Petitioner/s : Mr. Shailesh Kumar Sharma, Advocate  
For the Respondent/s : Mr. Sanjeet Kumar Singh, Advocate

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**CORAM: HONOURABLE MR. JUSTICE PARTHA SARTHY**  
**ORAL JUDGMENT**

**Date : 08-12-2025**

Heard learned counsel for the petitioner and learned  
counsel for the respondents.

2. The petitioner has filed the instant application for  
the following relief(s) :-

*“1. i. For issuance of an appropriate writ for quashing the resolution of General Administration Deptt. Govt. of Bihar, Patna contained in memo no. 7765 dated 31.05.12 issued under the signature of Joint Secretary by which the petitioner has been inflicted upon the punishment where the petitioner shall be reverted to the lowest pay scale in his own pay scale.*

*iii. For issuance of an appropriate writ for commanding and directing the respondents to pay the salary of the petitioner for the period of suspension as the salary of the period of suspension except subsistence allowances has*



*not been paid till date even there is no order for withholding the salary of the petitioner for the period on suspension.*

*ii. For issuance of an appropriate writ /order/direction for which the petitioner is found entitled for.”*

3. The relevant facts in brief are that in the year 2009 at the time of the Lok Sabha elections, the petitioner was posted as the Sub-Divisional Officer, Darbhanga Sadar and was also the Assistant Returning Officer. By order dated 17.3.2009, the petitioner was placed under suspension and it was directed that he would be paid suspension allowance as per the Bihar Government Servant (Classification, Control and Appeal) Rules, 2005 ('CCA Rules' in short). The suspension of the petitioner was subsequently revoked.

4. The petitioner was served with the memo of charge on 1.12.2009 which was to the effect that he had given permission for holding rally in clear violation of the mandate of the Election Commission. This was done inspite of the fact that code of conduct for the election was in operation and restrain order had been imposed by the Sub-Divisional Officer, Sadar Darbhanga from 2.3.2009 to 1.5.2009.

5. The petitioner submitted his reply before the Enquiry Officer denying the charges. The enquiry report was



submitted and a copy of the same was provided to the petitioner on 1.9.2010.

6. As directed, the petitioner submitted his response to the enquiry report on 10.4.2012. Thereafter, the respondents came out with the order of punishment contained in memo no.7765 dated 31.5.2012 under the signature of the Joint Secretary, General Administration Department, Government of Bihar reverting the petitioner to the lowest salary in his own pay-scale.

7. It is against this order of punishment that the petitioner has preferred the instant writ application for the reliefs as stated herein above.

8. It is submitted by learned counsel for the petitioner that while the petitioner was posted as the S.D.O., Darbhanga Sadar, and the process of Parliamentary elections were going on, an application was given by a person before the petitioner for grant of permission for holding meeting of the workers in a school premises. The application was accompanied with a No Objection Certificate from the Principal of school as also forwarding of the concerned B.D.O. It is the case of the petitioner that the District Magistrate, Darbhanga orally directed him to grant permission



for the meeting on the said application and as such the petitioner granted permission vide memo no.150 dated 12.3.2009. So far as the issuance of prohibitory orders under section 144 of the Cr.P.C. is concerned, it was submitted that the same having been issued by the petitioner himself and the powers vesting in him, he was not required to get permission from any other authority.

9. It was further submitted by learned counsel for the petitioner that at the relevant time there was no bar for use of school premises for election meeting.

10. Learned counsel for the petitioner further submits that the Bihar Public Service Commission (B.P.S.C.) was consulted on the point of punishment and the B.P.S.C. disagreed with the punishment given by the disciplinary authority of reverting the petitioner to the lowest pay-scale.

11. Learned counsel submits that on the enquiry report and the reply filed by the petitioner, the Chief Election Officer, Bihar was asked to give his comments. The Chief Election Officer, Bihar accepted that any oral directions given by the District Election Officer-cum-District Magistrate, Darbhanga had to be obeyed by the petitioner/S.D.O. The petitioner having abided with the directions of the District



Magistrate, there was nothing wrong with the same.

12. Learned counsel for the petitioner submits that from perusal of the note-sheet of the file with respect to the departmental proceeding against the petitioner obtained under the Right to Information Act, it transpires that the Hon'ble Chief Minister, Bihar, on the point of quantum of punishment has noted on 5.2.2012 of reversion to lowest pay-scale in his own pay-scale. Thus it is submitted that even before issuance of the second show cause on 27.2.2012, the disciplinary authority had decided on the quantum of punishment which is in gross violation in the principles of natural justice. In support of his contention, learned counsel for the petitioner has placed reliance on the judgment in the case of **Punjab National Bank & Ors. vs. Kunj Behari Misra; (1998) 7 SCC 84.**

13. In response, it is submitted by learned counsel appearing for the State of Bihar that it was pursuant to the direction of the Election Commission of India that the petitioner who was posted as the S.D.O., Darbhanga was placed under suspension and departmental proceeding initiated for violation of the code of conduct during the General Lok Sabha Elections in 2009. The suspension of the



petitioner was revoked on 23.11.2009. A departmental proceeding was started against the petitioner in which the enquiry report was submitted on 1.9.2010. A copy of the enquiry report was sent to the Election Commission of India and the comments of the Election Commission was received vide letter dated 24.8.2011. Thereafter enclosing a copy of the enquiry report, a second show cause notice was issued to the petitioner on 27.2.2012 to which the petitioner filed his reply on 10.4.2012.

14. Learned counsel for the respondents submits that on receipt of the petitioner's reply to the second show cause notice, the disciplinary authority decided to impose the punishment of reduction in lower stage of his pay-scale. On the matter being referred to the B.P.S.C for advise, the B.P.S.C differed with the proposed punishment. However as it was found that the allegations levelled against the petitioner were proved, the disciplinary authority communicated the punishment to the petitioner vide memo no.7765 dated 31.5.2012. The review petition filed by the petitioner has also been rejected on 9.5.2013. It is submitted that there has been no illegality nor any irregularity in the conduct of the proceedings against the petitioner which has ended in the



order of punishment being passed, as stated above. There being no merit in the instant application, the same be dismissed.

15. Heard learned counsel for the petitioner and learned counsel for the respondents.

16. The relevant facts in brief are that the petitioner while posted as the S.D.O., Darbhanga Sadar as also the Assistant Returning Officer was placed under suspension on 17.3.2009 and was proceeded against in a departmental proceeding under the C.C.A. Rules by service of memo of charge on 1.12.2009. The enquiry report was submitted on 1.9.2010 and the proceeding ended in the order of punishment being passed against the petitioner on 31.5.2012 reverting the petitioner to the lowest salary in his own pay scale.

17. The charge against the petitioner was that he had given permission for holding rally in clear violation of the mandate of the Election Commission. Further, the code of conduct for the election was in operation and the restrain order had been imposed by the S.D.O., Sadar Darbhanga.

18. A perusal of the enquiry report brought on record as Annexure-8 to the writ application would show that the Enquiry Officer has taken note of the stand of the



petitioner that he had given permission for holding the rally on the oral direction of the District Magistrate, Darbhanga. The Enquiry Officer in his report observes that this stand of the petitioner is substantiated from the contents of letter no.202 dated 19.7.2010 written by the Additional Collector-cum-Presenting Officer, Darbhanga to the Conducting Officer.

19. Further, a copy of the order granting permission contained in memo no.150 dated 12.3.2009 (Annexure-2 series) issued under the signature of the petitioner was also sent to the District Magistrate ie the District Election Officer, Darbhanga for his information. No objection was raised by the District Magistrate to the same. On the matter being referred to the Chief Election Officer, Bihar for his comments, he was of the opinion that it is normal for the Sub Divisional Officer to comply with the oral directions of the District Magistrate.

20. On further perusal of the contents of the enquiry report, it transpires that though the charge against the petitioner and his response thereto had been discussed with, however, there is no mention whatsoever with respect to any witness having been examined nor any document in support of the charges having been proved in course of the enquiry.

21. Non-examination of any witness in course of



enquiry and not proving any document in support of the charge would clearly be in violation of the judgment of the Hon'ble Supreme Court in the case of **Roop Singh Negi vs. Punjab National Bank; (2009) 2 SCC 570** where the Hon'ble Supreme Court held as follows:

*“14. Indisputably, a departmental proceeding is a quasi judicial proceeding. The Enquiry Officer performs a quasi judicial function. The charges leveled against the delinquent officer must be found to have been proved. The enquiry officer has a duty to arrive at a finding upon taking into consideration the materials brought on record by the parties. The purported evidence collected during investigation by the Investigating Officer against all the accused by itself could not be treated to be evidence in the disciplinary proceeding. No witness was examined to prove the said documents. The management witnesses merely tendered the documents and did not prove the contents thereof. Reliance, inter alia, was placed by the Enquiry Officer on the FIR which could not have been treated as evidence.”*

22. Having heard learned counsel for the parties and having perused the material on record, the substance of the explanation furnished by the petitioner to the effect that he granted permission for holding the rally on the oral direction of the District Magistrate, a copy of the said permission



having been forwarded to the District Magistrate not having been contradicted by him, the said fact having been confirmed in the letter no.202 dated 19.7.2010 written by the Deputy Collector to the Conducting Officer as also no witness having been examined in course of enquiry, in the opinion of the Court, the order of punishment passed against the petitioner is not sustainable.

23. The order contained in memo no.7765 dated 31.5.2012 issued under the signature of the Joint Secretary, General Administration Department, Government of Bihar is set aside with a direction to the respondents to pay all consequential benefits including payment of full salary for the period of suspension which shall be paid to the petitioner within a period of three months from the date of receipt/production of a copy of this order.

24. The writ application stands allowed.

**(Partha Sarthy, J)**

Shiv/Saurabh

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| <b>AFR/NAFR</b>          | NAFR       |
| <b>CAV DATE</b>          | N/A        |
| <b>Uploading Date</b>    | 09.12.2025 |
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