

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No. 121 of 2021

In

Civil Writ Jurisdiction Case No.7906 of 2020

-
1. The State of Bihar through the Additional Chief Secretary, Home (Police) Department, Government of Bihar, Patna.
 2. The Additional Chief Secretary, Home (Police) Department, Government of Bihar, Patna.
 3. The Director General of Police, Bihar, Patna.
 4. The Inspector General of Police, Muzaffarpur Zone, District- Muzaffarpur.
 5. The Deputy Inspector General of Police, Saran Range, District- Chapra.
 6. The Deputy Inspector General of Police, (Personnel), Bihar, Patna.
 7. The Superintendent of Police, District- Gopalganj.
 8. The Superintendent of Police, District- Buxar.
 9. The Police Inspector-cum-Conducting Officer, OSD, Office of Superintendent of Police, District- Gopalganj.

... .. Appellants

Versus

Ananjay Singh @ Ananjay Kumar Singh, Son of Subhas Singh, Resident of Village and P.O.-Harpur, P.S.- Ekma, District-Saran at Chapra.

... .. Respondent

with

Letters Patent Appeal No.473 of 2021

In

Civil Writ Jurisdiction Case No.7884 of 2020

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1. The State of Bihar through the Additional Chief Secretary, Home (Police) Department, Government of Bihar, Patna.
 2. The Additional Chief Secretary Home (Police) Department, Government of Bihar, Patna.
 3. The Director General of Police, Bihar, Patna.
 4. The Inspector General of Police, Muzaffarpur Zone, District- Muzaffarpur.
 5. The Deputy Inspector General of Police, Saran Range, District- Chapra.
 6. The Deputy Inspector General of Police,(Personnel), Bihar, Patna.
 7. The Superintendent of Police, District- Gopalganj.
 8. The Superintendent of Police, District- Arwal.
 9. The Police Inspector-Cum-Conducting Officer, OSD, District- Gopalganj.

... .. Appellants

Versus

Shailendra Kumar Singh @ Shailendra Kumar, Son of Late Ashok Kumar Sing, Resident of Village and P.O.-Arak Parijan Tola, P.S.-Krishna Brij, District -Buxar.

... .. Respondent



with
Letters Patent Appeal No. 223 of 2021
In
Civil Writ Jurisdiction Case No.7893 of 2020

1. The State of Bihar through the Additional Chief Secretary, Home (Police) Department, Government of Bihar, Patna.
2. The Additional Chief Secretary, Home (Police) Department, Government of Bihar, Patna.
3. The Director General of Police, Bihar, Patna.
4. The Inspector General of Police, Muzaffarpur Zone, District - Muzaffarpur.
5. The Deputy Inspector General of Police, Saran Range, District - Chapra.
6. The Deputy Inspector General of Police, (Personnel), Bihar, Patna.
7. The Superintendent of Police, District - Gopalganj.
8. The Superintendent of Police, District - Muzaffarpur.
9. The Police Inspector-cum-Conducting Officer, Legal Cell, District - Gopalganj.

... .. Appellants

Versus

Raj Bharat Singh, Son of Ram Ishwar Singh, Resident of Village- Ahile, Agiaon, P.O. - Kurmichak, P.S. - Narayanpur (Sahar), District - Bhojpur.

... .. Respondent

with
Letters Patent Appeal No. 224 of 2021
In
Civil Writ Jurisdiction Case No.7909 of 2020

1. The State of Bihar through the Additional Chief Secretary, Home (Police) Department, Government of Bihar, Patna.
2. The Additional Chief Secretary, Home (Police) Department, Government of Bihar, Patna.
3. The Director General of Police, Bihar, Patna.
4. The Inspector General of Police, Muzaffarpur Zone, District - Muzaffarpur.
5. The Deputy Inspector General of Police, Saran Range, District - Chapra.
6. The Deputy Inspector General of Police, (Personnel), Bihar, Patna.
7. The Superintendent of Police, District- Gopalganj.
8. The Superintendent of Police, District- East Champaran (Motihari).
9. The Deputy Superintendent of Police cum Conducting Officer (Muffasil), Dist. - Gopalganj.

... .. Appellants

Versus



Amit Kumar Singh @ Amit Kumar, Son of Tarkeshwar Singh, Resident of Village - Paraskhan, P.O. - Basdila, P.S. Jalalpur (Jalalpur Bazar), District-Saran at Chapra.

... .. Respondent

with
Letters Patent Appeal No. 228 of 2021
In
Civil Writ Jurisdiction Case No.7864 of 2020

1. The State of Bihar through the Addl. Chief Secretary Home (Police) Department Govt. of Bihar, Patna.
2. The Addl. Chief Secretary Home (Police) Department Govt. of Bihar, Patna.
3. The Director General of Police Bihar, Patna.
4. The Inspector General of Police, Muzaffarpur, Zone, District - Muzaffarpur.
5. The Deputy Inspector General of Police, Saran Range, District- Chapra.
6. The Deputy Inspector General of Police (Personnel) Bihar, Patna.
7. The Superintendent of Police, District- Gopalganj.
8. The Superintendent of Police, District- Banka.
9. The Police Inspector- cum-OSD-cum-Conducting Officer, Police Officer, District- Gopalganj.

... .. Appellants

Versus

Mithileshwar Singh, Son of Satyanarayan Singh, Resident of Village and P.O.- Bharpura, P.S. - Sonapur, District- Saran at Chapra.

... .. Respondent

with
Letters Patent Appeal No. 231 of 2021
In
Civil Writ Jurisdiction Case No.7886 of 2020

1. The State of Bihar through the Additional Chief Secretary, Home (Police) Department, Government of Bihar, Patna
2. The Additional Chief Secretary, Home (Police) Department, Government of Bihar, Patna
3. The Director General of Police, Bihar, Patna
4. The Inspector General of Police, Muzaffarpur Zone, District- Muzaffarpur
5. The Deputy Inspector General of Police, Saran Range, District- Chapra
6. The Deputy Inspector General of Police, (Personnel), Bihar, Patna
7. The Superintendent of Police, District- Goptalganj
8. The Police Inspector-cum-Officer in Charge cum Conducting Officer, Town Police Station, District- Gopalganj

... .. Appellants

Versus



Dheeraj Kumar Ray, Son of Ishwar Dayal Ray, Resident of Village-
Gayeghat, P.O.- Ashaparari, P.S.- Simari, District- Buxar

... .. Respondent

with
Letters Patent Appeal No. 234 of 2021
In
Civil Writ Jurisdiction Case No.7896 of 2020

1. The State of Bihar through the Additional Chief Secretary, Home (Police) Department, Government of Bihar, Patna.
2. The Additional Chief Secretary, Home (Police) Department, Government of Bihar, Patna.
3. The Director General of Police, Bihar, Patna.
4. The Inspector General of Police, Muzaffarpur Zone, District- Muzaffarpur.
5. The Deputy Inspector General of Police, Saran Range, District- Chapra.
6. The Deputy Inspector General of Police, (Personnel), Bihar, Patna.
7. The Superintendent of Police, District - Gopalganj.
8. The Superintendent of Police, District - Saran.
9. The Sergeant Major cum Conducting Officer, Police Kendra, Gopalganj.

... .. Appellants

Versus

Rakesh Kumar Singh, Son of Rambahadur Singh, Resident of Village -
Banshipur, P.O. - Shambhuganj, Dist - Banka.

... .. Respondent

with
Letters Patent Appeal No. 235 of 2021
In
Civil Writ Jurisdiction Case No.7894 of 2020

1. The State of Bihar through the Addl. Chief Secretary Home (Police) Department, Govt. of Bihar, Patna
2. The Addl. Chief Secretary Home (Police) Department, Govt. of Bihar, Patna
3. The Director General of Police, Bihar, Patna
4. The Inspector General of Police, Muzaffarpur, Zone, District- Muzaffarpur
5. The Deputy Inspector General of Police, Saran Range, District- Chapra
6. The Deputy Inspector General of Police (Personnel) Bihar, Patna
7. The Superintendent of Police, District- Gopalganj
8. The Superintendent of Police, District- Jehanabad
9. The Police Inspector-cum-Conducting Officer, OSD in the Office Superintendent of Police, District- Gopalganj

... .. Appellants

Versus



Manoj Kumar Singh @ Manoj Kumar, Son of Madan Singh, Resident of
Village and P.O.- Harpur Ekma, P.S.- Ekma, District- Saran at Chapra
... .. Respondent

with
Letters Patent Appeal No. 237 of 2021
In
Civil Writ Jurisdiction Case No.7878 of 2020

1. The State of Bihar through the Additional Chief Secretary, Home (Police) Department, Government of Bihar, Patna.
2. The Additional Chief Secretary, Home (Police) Department, Government of Bihar, Patna.
3. The Director General of Police, Bihar, Patna.
4. The Inspector General of Police, Muzaffarpur Zone, District- Muzaffarpur.
5. The Deputy Inspector General of Police, Saran Range, District- Chapra.
6. The Assistant to Inspector General of Police (Inspection), Bihar, Patna.
7. The Superintendent of Police, District- Gopalganj.
8. The Superintendent of Police, District- Siwan.
9. The Police Inspector-cum-Conducting Officer, Prohibition Cell, District- Gopalganj.

... .. Appellants

Versus

Sunil Kumar Srivastava, Son of Ramayan Prasad Srivastava, Resident of Ajji Lane, Mithapur, Sai Dev Campus, Goriya Math, Phulwari, P.O. - Mithapur, P.S. - Jakkanpur, Dist- Patna.

... .. Respondent

with
Letters Patent Appeal No. 245 of 2021
In
Civil Writ Jurisdiction Case No.7912 of 2020

1. The State of Bihar through the Additional Chief Secretary, Home (Police) Department, Government of Bihar, Patna.
2. The Additional Chief Secretary, Home (Police) Department, Government of Bihar, Patna.
3. The Director General of Police, Bihar, Patna.
4. The Inspector General of Police, Muzaffarpur, Zone, District- Muzaffarpur.
5. The Deputy Inspector General of Police Saran Range, District Chapra.
6. The Deputy Inspector General of Police (Personnel), Bihar, Patna.
7. The Superintendent of Police, District- Gopalganj.
8. The Superintendent of Police, District- Banka.
9. The Police Inspector-cum-Conducting Officer, Gopalganj Town, Police



Station, District- Gopalganj.

... .. Appellant

Versus

Mohan Prasad Singh, Son of Parmanand Singh, Resident of Village and P.O.-
Nikhtikalan, P.S.- Raghunathpur, District- Siwan.

... .. Respondents

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with

Letters Patent Appeal No. 249 of 2021

In

Civil Writ Jurisdiction Case No.7897 of 2020

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1. The State of Bihar through the Additional Chief Secretary, Home (Police) Department, Govt. of Bihar, Patna.
2. The Additional Chief Secretary, Home (Police) Department, Government of Bihar, Patna.
3. The Director General of Police, Bihar, Patna.
4. The Inspector General of Police, Muzaffarpur Zone, District- Muzaffarpur.
5. The Deputy Inspector General of Police, Saran Range, District- Chapra.
6. The Deputy Inspector General of Police, (Personnel), Bihar, Patna.
7. The Superintendent of Police, District- Gopalganj.
8. The Superintendent of Police, District- Siwan.
9. The Police Inspector-cum-Conducting Officer, Prohibition Cell, District- Gopalganj.

... .. Appellants

Versus

Nawal Kumar Singh, Son of Yadunandan Singh, Resident of Village - Bhalar,
P.S. - Dharhara, Dist- Munger.

... .. Respondent

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with

Letters Patent Appeal No. 255 of 2021

In

Civil Writ Jurisdiction Case No.7910 of 2020

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1. The State of Bihar through the Additional Chief Secretary, Home (Police) Department, Government of Bihar, Patna
2. The Additional Chief Secretary, Home (Police) Department, Government of Bihar, Patna.
3. The Director General of Police, Bihar, Patna
4. The Inspector General of Police, Muzaffarpur Zone, District- Muzaffarpur
5. The Deputy Inspector General of Police, Saran Range, District- Chapra.
6. The Deputy Inspector General of Police, (Personnel), Bihar, Patna.
7. The Superintendent of Police, District- Gopalganj



8. The Superintendent of Police, District-Saran.
 9. The Police Inspector-Cum-Conducting Officer Mirganj Circle, District-Gopalganj.
- Appellants
- Versus
- Gulam Ahmad, S/o- Gulam Mutaza, Resident of Village- Baghi, P.O.-Banahi, P.S.- Bihiyan, District- Bhojpur.
- Respondent

with
Letters Patent Appeal No. 256 of 2021
In
Civil Writ Jurisdiction Case No.7865 of 2020

1. The State of Bihar through the Addl. Chief Secretary Home (Police) Department Govt. of Bihar, Patna.
2. The Addl. Chief Secretary Home (Police) Department Govt. of Bihar, Patna.
3. The Director General of Police Bihar, Patna.
4. The Inspector General of Police, Muzaffarpur Zone, District- Muzaffarpur.
5. The Deputy Inspector General of Police, Saran Range, District- Chapra.
6. The Deputy Inspector General of Police (Personnel), Bihar, Patna.
7. The Superintendent of Police, District- Gopalganj.
8. The Senior Superintendent of Police, District- Patna.
9. The Police Inspector-cum-Conducting Officer, Mirganj Circle, District-Gopalganj.

... .. Appellants

Versus

Nitesh Kumar Singh, Son of Narendra Kumar Singh, Resident of Village-Garhara Khurd, P.O. and P.S.- Brahmpur, District- Buxar.

... .. Respondent

with
Letters Patent Appeal No. 311 of 2021
In
Civil Writ Jurisdiction Case No.7872 of 2020

1. The State of Bihar through the Additional Chief Secretary, Home (Police) Department, Government of Bihar, Patna.
2. The Additional Chief Secretary, Home (Police) Department, Government of Bihar, Patna.
3. The Director General of Police, Bihar, Patna.
4. The Inspector General of Police, Muzaffarpur Zone, District- Muzaffarpur.
5. The Deputy Inspector General of Police, Saran Range, District- Chapra.
6. The Deputy Inspector General of Police, (Personnel), Bihar, Patna.
7. The Superintendent of Police, District - Gopalganj.



8. The Superintendent of Police, District- Saran.
 9. The Police Inspector-cum-Officer, In-charge-cum-Conducting Officer, Town Police Station, District- Gopalganj.
- Appellants
- Versus
- Manish Kumar @ Manish Kumar Saw, Son of Narayan Saw, Resident of Village - Mahuli, P.O. - Gidhaur, P.S. - Khaira, District- Jamui.
- Respondent

with
Letters Patent Appeal No. 469 of 2021
In
Civil Writ Jurisdiction Case No.7883 of 2020

1. The State of Bihar through the Additional Chief Secretary, Home (Police) Department, Government of Bihar, Patna.
2. The Additional Chief Secretary, Home (Police) Department, Government of Bihar, Patna.
3. The Director General of Police, Bihar, Patna.
4. The Inspector General of Police, Muzaffarpur Zone, District- Muzaffarpur.
5. The Deputy Inspector General of Police, Saran Range, District- Chapra.
6. The Deputy Inspector General of Police (Personnel), Bihar, Patna.
7. The Superintendent of Police, District- Gopalganj.
8. The Police Inspector Cum Conducting Officer, Mirganj Circle, District- Gopalganj.

... .. Appellants

Versus

Pushpendra Ojha Son of Late Babuan Ojha, Resident of Village and P.O.-Ojha ke Badheya, Barhee, P.S.- Jeerada, Dist- Siwan.

... .. Respondent

with
Letters Patent Appeal No. 470 of 2021
In
Civil Writ Jurisdiction Case No.7891 of 2020

1. The State of Bihar through the Additional Chief Secretary, Home (Police) Department, Government of Bihar, Patna.
2. The Additional Chief Secretary, Home (Police) Department, Government of Bihar, Patna.
3. The Director General of Police, Bihar, Patna.
4. The Inspector General of Police (Budget/Appeal/Welfare), Bihar, Patna.
5. The Inspector General of Police Muzaffarpur Zone, District- Muzaffarpur.
6. The Deputy Inspector General of Police Saran Range, District- Chapra.
7. The Superintendent of Police District- Gopalganj.



8. The Superintendent of Police District- Siwan.
 9. The Superintendent of Police District- Saran.
 10. The Sub Divisional Police Officer Hathua, District- Gopalganj.
- Appellants
- Versus
- Brahmdeo Prasad Alok, Son of Sri Mauze Lal Prasad, Resident of Lane No.2,
S.K. Puram, R.P.S. More, Bailey Road, P.O. and P.S.- Danapur, District-Patna.
- Respondent

with
Letters Patent Appeal No. 471 of 2021
In
Civil Writ Jurisdiction Case No.7890 of 2020

1. The State of Bihar through the Additional Chief Secretary, Home (Police) Department, Government of Bihar, Patna.
2. The Additional Chief Secretary, Home (Police) Department, Government of Bihar, Patna.
3. The Director General of Police, Bihar, Patna.
4. The Inspector General of Police, Muzaffarpur Zone, District- Muzaffarpur.
5. The Deputy Inspector General of Police, Saran Range, District- Chapra.
6. The Deputy Inspector General of Police, (Personnel), Bihar, Patna.
7. The Superintendent of Police, District - Gopalganj.
8. The Police Inspector-cum-Conducting Officer, Mirganj Circle, District- Gopalganj.

... .. Appellants

Versus

Dineshwar Prasad Yadav, Son of Late Gaya Rai, Resident of Village-
Mubarakpur, P.O. - Gurukul Mehinya, P.S.- Garkha, District- Saran (Chapra).

... .. Respondent

with
Letters Patent Appeal No. 554 of 2021
In
Civil Writ Jurisdiction Case No.7903 of 2020

1. The State of Bihar through the Additional Chief Secretary, Home (Police) Department, Government of Bihar, Patna.
2. The Additional Chief Secretary, Home (Police) Department, Government of Bihar, Patna.
3. The Director General of Police, Bihar, Patna.
4. The Inspector General of Police, Muzaffarpur Zone, District- Muzaffarpur.
5. The Deputy Inspector General of Police, Saran Range, District- Chapra.
6. The Deputy Inspector General of Police, (Personnel), Bihar, Patna.
7. The Superintendent of Police, District- Gopalganj.



8. The Sergeant Major cum Conducting Officer, Police Kendra Gopalganj,
District- Gopalganj.

... .. Appellants

Versus

Rahul Kumar, Son of Mohan Choudhary, Resident of Village - Kushwaha
Nagar (Ahary), P.O. and P.S. - Aurangabad, District- Aurangabad.

... .. Respondent

with

Letters Patent Appeal No. 116 of 2022
In
Civil Writ Jurisdiction Case No.7901 of 2020

1. The State of Bihar through the Additional Chief Secretary, Home (Police)
Department, Government of Bihar, Patna.
2. The Additional Chief Secretary, Home (Police) Department, Government of
Bihar, Patna.
3. The Director General of Police, Bihar, Patna.
4. The Inspector General of Police, Muzaffarpur Zone, District - Muzaffarpur.
5. The Deputy Inspector General of Police, Saran Range, District - Chapra.
6. The Deputy Inspector General of Police, (Personnel) Bihar, Patna.
7. The Superintendent of Police, District - Gopalganj.
8. The Superintendent of Police, District - Saran.
9. The Deputy Superintendant of Police Cum Conducting Officer (Muffasil),
District - Gopalganj.

... .. Appellants

Versus

Anju Devi, Wife of Late Dilkash Kumar Singh, Resident of Village- Bindtoli,
P.O. - Tintanga Karari, P.S. - Gopalpur, District - Bhagalpur.

... .. Respondent

Appearance :

(In Letters Patent Appeal No. 121 of 2021)

For the Appellants : Mr. P.K. Verma, AAG-3
Mr. Sanjay Kumar Ghosarvey, A.C. To A.A.G.3
For the Respondent : Mr. Y.V. Giri, Senior Advocate
Mr. Sanjay Kumar Giri, Advocate

(In Letters Patent Appeal No. 473 of 2021)

For the Appellants : Mr. P.K. Verma, AAG-3
Mr. Sanjay Kumar Ghosarvey, A.C. To A.A.G.3
For the Respondent : Mr. Y.V. Giri, Senior Advocate
Mr. Sanjay Kumar Giri, Advocate

(In Letters Patent Appeal No. 223 of 2021)

For the Appellants : Mr. P.K. Verma, AAG-3
Mr. Sanjay Kumar Ghosarvey, A.C. To A.A.G.3
For the Respondent : Mr. Y.V. Giri, Senior Advocate
Mr. Sanjay Kumar Giri, Advocate

(In Letters Patent Appeal No. 224 of 2021)

For the Appellants : Mr. P.K. Verma, AAG-3
Mr. Sanjay Kumar Ghosarvey, A.C. To A.A.G.3



For the Respondent : Mr. Y.V. Giri, Senior Advocate
Mr. Sanjay Kumar Giri, Advocate
(In Letters Patent Appeal No. 228 of 2021)

For the Appellants : Mr. P.K. Verma, AAG-3
Mr. Sanjay Kumar Ghosarvey, A.C. To A.A.G.3

For the Respondent : Mr. Y.V. Giri, Senior Advocate
Mr. Sanjay Kumar Giri, Advocate
(In Letters Patent Appeal No. 231 of 2021)

For the Appellants : Mr. P.K. Verma, AAG-3
Mr. Sanjay Kumar Ghosarvey, A.C. To A.A.G.3

For the Respondent : Mr. Y.V. Giri, Senior Advocate
Mr. Sanjay Kumar Giri, Advocate
(In Letters Patent Appeal No. 234 of 2021)

For the Appellants : Mr. P.K. Verma, AAG-3
Mr. Sanjay Kumar Ghosarvey, A.C. To A.A.G.3

For the Respondent : Mr. Y.V. Giri, Senior Advocate
Mr. Sanjay Kumar Giri, Advocate
(In Letters Patent Appeal No. 235 of 2021)

For the Appellants : Mr. P.K. Verma, AAG-3
Mr. Sanjay Kumar Ghosarvey, A.C. To A.A.G.3

For the Respondent : Mr. Y.V. Giri, Senior Advocate
Mr. Sanjay Kumar Giri, Advocate
(In Letters Patent Appeal No. 237 of 2021)

For the Appellants : Mr. P.K. Verma, AAG-3
Mr. Sanjay Kumar Ghosarvey, A.C. To A.A.G.3

For the Respondent : Mr. Y.V. Giri, Senior Advocate
Mr. Sanjay Kumar Giri, Advocate
(In Letters Patent Appeal No. 245 of 2021)

For the Appellants : Mr. P.K. Verma, AAG-3
Mr. Sanjay Kumar Ghosarvey, A.C. To A.A.G.3

For the Respondent : Mr. Y.V. Giri, Senior Advocate
Mr. Sanjay Kumar Giri, Advocate
(In Letters Patent Appeal No. 249 of 2021)

For the Appellants : Mr. P.K. Verma, AAG-3
Mr. Sanjay Kumar Ghosarvey, A.C. To A.A.G.3

For the Respondent : Mr. Y.V. Giri, Senior Advocate
Mr. Sanjay Kumar Giri, Advocate
(In Letters Patent Appeal No. 255 of 2021)

For the Appellants : Mr. P.K. Verma, AAG-3
Mr. Sanjay Kumar Ghosarvey, A.C. To A.A.G.3

For the Respondent : Mr. Y.V. Giri, Senior Advocate
Mr. Sanjay Kumar Giri, Advocate
(In Letters Patent Appeal No. 256 of 2021)

For the Appellants : Mr. P.K. Verma, AAG-3
Mr. Sanjay Kumar Ghosarvey, A.C. To A.A.G.3

For the Respondent : Mr. Y.V. Giri, Senior Advocate
Mr. Sanjay Kumar Giri, Advocate
(In Letters Patent Appeal No. 311 of 2021)

For the Appellants : Mr. P.K. Verma, AAG-3
Mr. Sanjay Kumar Ghosarvey, A.C. To A.A.G.3

For the Respondent : Mr. Y.V. Giri, Senior Advocate
Mr. Sanjay Kumar Giri, Advocate
(In Letters Patent Appeal No. 469 of 2021)

For the Appellants : Mr. P.K. Verma, AAG-3
Mr. Sanjay Kumar Ghosarvey, A.C. To A.A.G.3

For the Respondent : Mr. Y.V. Giri, Senior Advocate
Mr. Sanjay Kumar Giri, Advocate



(In Letters Patent Appeal No. 470 of 2021)

For the Appellants : Mr. P.K. Verma, AAG-3
Mr. Sanjay Kumar Ghosarvey, A.C. To A.A.G.3
For the Respondent : Mr. Y.V. Giri, Senior Advocate
Mr. Sanjay Kumar Giri, Advocate

(In Letters Patent Appeal No. 471 of 2021)

For the Appellants : Mr. P.K. Verma, AAG-3
Mr. Sanjay Kumar Ghosarvey, A.C. To A.A.G.3
For the Respondent : Mr. Y.V. Giri, Senior Advocate
Mr. Sanjay Kumar Giri, Advocate

(In Letters Patent Appeal No. 554 of 2021)

For the Appellants : Mr. P.K. Verma, AAG-3
Mr. Sanjay Kumar Ghosarvey, A.C. To A.A.G.3
For the Respondent : Mr. Y.V. Giri, Senior Advocate
Mr. Sanjay Kumar Giri, Advocate

(In Letters Patent Appeal No. 116 of 2022)

For the Appellants : Mr. P.K. Verma, AAG-3
Mr. Sanjay Kumar Ghosarvey, A.C. To A.A.G.3
For the Respondent : Mr. Y.V. Giri, Senior Advocate
Mr. Sanjay Kumar Giri, Advocate

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
and
HONOURABLE MR. JUSTICE RAMESH CHAND MALVIYA
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD)

Date : 04-03-2025

These Letters Patent Appeals are raising common question, therefore, these matters have been tagged and listed together for consideration.

2. Mr. P.K. Verma, learned Additional Advocate General-3 (in short 'A.A.G.') has requested this Court to take up LPA No. 121 of 2021 (State of Bihar Vs. Ananjay Singh @ Ananjay Kumar Singh) as the lead case. Accordingly, we have heard learned A.A.G. assisted by Mr. Sanjay Kumar Ghosarvey, A.C. to A.A.G. for the appellant and learned counsel for the respondents.



3. In order to appreciate the issue raised for consideration by this Court, it would be required to mention the brief facts of the case.

Brief Facts

4. It is stated that in a village known as 'Khajuria' under Gopalganj (Town) Police Station, District- Gopalganj, on 16.08.2016 sixteen persons consumed spurious country-made liquor, they were reported dead. A first information report was lodged giving rise to Gopalganj Town P.S. Case No. 347 of 2016. In a raid conducted in village, police recovered huge quantity of semi fermented country made liquor and other intermediate/final products intended to be used in the preparation of country-made liquor.

5. The petitioner(s) before the learned Writ Court were among the 29 police personnel posted in the police station. They were placed under suspension. Later on, the order of suspension was revoked and a decision was taken to conduct a departmental proceeding against them. Charges were framed against the petitioners-respondents by Superintendent of Police, Gopalganj. The chargesheet, apart from the facts as to the occurrence which had taken place on 16.08.2016, mentioned that in relation to new Excise Policy, in the crime meetings from time to time the police



personnel were sensitized for the recovery of illicit liquor. The chargesheet alleged that the manufacturing of illicit liquor and sale of the same in 'Khajuria' village which is at a distance of two kilometers from the police station was within the knowledge of the police officers and the staffs but they did not take it seriously, it is an apparent case of negligence, dereliction of duty and suspicious conduct.

6. From the charge memo, it would appear that the disciplinary authority intended to rely upon three documents to establish the charge. Those are (1) Gopalganj Jiladesh No. 738/2016, (2) Gopalganj Jiladesh No. 19/2017 and (3) Copy of the FIR.

7. Further the Department named three witnesses in the chargesheet, they are (1) Confidential Reader, Superintendent of Police, Gopalganj, (2) Reserved Sub-Inspector, Police Line, Gopalganj and (3) Station House Officer, Town Police Station, Gopalganj.

8. The learned Writ Court found that the document at Item No. 1 hereinabove was the order whereby the petitioner was put under suspension and the document at Item No. 2 of the chargesheet was the order whereby the said order of suspension was revoked. The third document was the first information report



registered in respect of the occurrence in question. In the departmental inquiry, the Confidential Reader, Superintendent of Police, Gopalganj proved the documents at Item Nos. 1 and 2 which were issued by the Superintendent of Police, Gopalganj after the occurrence was reported. The Reserve Sub-Inspector of Police also proved the said two documents. The Officer-in-Charge of the police station proved the F.I.R. showing registration of Gopalganj P.S. Case No. 347 of 2016.

9. The Inquiry Officer submitted its report on 20.11.2018. He held that the petitioner(s) must have been going to the nearby villages for patrolling duty and for the investigation of the cases, therefore, he/they should have been aware that there were complete prohibition imposed by the State of Bihar and stringent provisions have been made for implementation of the prohibition laws, despite that, illegal business of illicit liquor at a place hardly two kilometers away from the police station was going on which was suggestive of the petitioner(s)' negligence, dereliction of duty and his suspicious conduct.

10. The disciplinary authority took into consideration the inquiry report and the conduct of the petitioner and imposed punishment of 'two black marks' having the effect of stoppage of increment in salary for one year with cumulative effect. The writ



petitioner(s) did not prefer any appeal against the said order of punishment.

11. It appears that the Deputy Inspector-General of Police was not in agreement with the disciplinary authority, as according to him, it was a case of proven misconduct on the part of the writ petitioner(s), therefore, it warranted harsher punishment. He, therefore, sent the entire records to the Police Headquarter for further action under Rule 853 A (a) of Bihar Police Manual, 1978 (hereinafter referred to as the 'Police Manual') through his Letter No. 264 dated 25.01.2019. Thereafter, the writ petitioner(s) was/were served with a notice against proposed termination of his/their services in exercise of power under Rule 853A (a) of the Police Manual. Thereafter the impugned orders were passed.

12. The writ petitioner(s) were advised to prefer an appeal under Rule 24 of the Bihar Government Servants (Classification, Control and Appeal) Rules, 2005 (hereinafter referred to as the 'Bihar CCA Rules'). Later on, the writ petitioner(s) were advised that there is no provision for statutory appeal against the order passed by the Inspector General-cum-Director General of Police in exercise of his power under Rule 853A (a) of the Police Manual. The writ petitioner(s), therefore, moved this Court invoking the extraordinary writ jurisdiction of



this Court. The order passed by Respondent No. 3 under Rule 853A (a) of the Police Manual was assailed in the writ petition(s). The writ petitioner(s) also assailed the consequential orders issued by the Respondent No. 7 and Respondent No. 8. In the lead case (C.W.J.C. No. 7906 of 2020), the impugned orders are contained in Annexures '7', '8' and '9' respectively. Similar orders have been passed in respect of all the writ petitioners.

13. In the writ petition(s), the petitioner(s) have further prayed for a writ in the nature of Mandamus directing the respondents to reinstate them on the post of Constable with effect from the date of issuance of the consequential orders, with all consequential benefits including back wages which accrued to them during the period of their termination till their reinstatement.

Submissions of the State

14. It appears that a counter affidavit was filed on behalf of the respondent Director General of Police, Bihar (Respondent No. 3) in the writ petition(s). He sought to defend the order of termination. It is the stand of Respondent No. 3 that a departmental inquiry (proceeding) against employees of the Police Organization would be governed by the Bihar CCA Rules, 2005 and the procedures prescribed therein to conduct a disciplinary proceeding for imposing major penalties are fully applicable. It is



his submission that the whole matter was reviewed at the level of the Police Headquarter, Bihar, Patna and after review, an explanation was sought from the petitioner(s) calling upon them to show cause as to why they should not be dismissed from service in view of the seriousness of the charges proved against the petitioner(s). The petitioner(s) denied the charges of having knowledge of manufacturing of illicit liquor in Khajuria village. The Respondent No. 3 was, however, of the view that the petitioner(s) had not taken seriously the earlier occurrences in which illicit liquors were recovered from village Khajuria giving rise to Gopalganj Town P.S. Case No. 160 of 2016 and 334 of 2016. The Respondent No. 3 was of the view that since the police team used to go village Khajuria repeatedly for patrolling duty, hence, they had prior knowledge of manufacturing racket of illicit liquor working from long back in the said village which is just two kilometers from the police station. The petitioner(s) were held responsible for the incident happened in the village and they were found guilty by the Inquiry Officer for the charge levelled against them. The Respondent No. 3 placed before the learned Writ Court Memo No. 3132 dated 27.04.2016 and Memo No. 1064 dated 15.06.2020 (Annexures 'A' and 'B' to the counter affidavit respectively) to submit that by these memos, Respondent No. 3



had made it clear to all concerned that there is a total prohibition of liquor manufacturing, selling, transportation and consumption in the territory of the State of Bihar so, the responsibility to implement the full prohibition was entrusted to all the policemen posted in the State. It is his stand that the said order has been ignored by the petitioner(s). Since the charges against petitioner(s) were proved, respondent No. 3 justified his order passed under Rule 853A (a) of the Police Manual.

15. A counter affidavit was also filed in C.W.J.C. No. 7906 of 2020 on behalf of the Police Inspector -cum- Conducting Officer, OSD Office of S.P. (Respondent No. 8) which is only by way of a formality. Respondent No. 8 has submitted that he had complied with the order passed by Respondent No. 3 which is under the mandate of law being a Sub-ordinate Officer of the Respondent Authority. A plea of alternative remedy has been raised saying that the petitioner has already filed an appeal before the Respondent No. 2 under the statute, hence, the writ petition is not sustainable.

Judgment of the Writ Court

16. The learned Writ Court set aside the impugned orders. The reasoning and rationale for setting aside the impugned orders are contained in paragraphs '30', '31' and '32' of the



impugned judgment (C.W.J.C. No. 7906 of 2020) which we reproduce hereunder:—

“30. Coming now to the order passed by the Director General-cum-Inspector General of Police dated 05.06.2020, it is noticed that the said order has altogether fourteen paragraphs, out of which, only one paragraph vaguely refers to and reiterates that all police officers/personnel posted in the police station had knowledge about preparation and sale of illicit liquor in the concerned village situated hardly two kms away from the police station. Registration of three earlier criminal cases, namely, Gopalganj P.S. Case Nos. 160/2016, 334/16 and 343/16 is the reason, which has been assigned in the order why all the police personnel/officers posted in the police station including the petitioner must have been aware of the illegal activities going on. There is absolutely no discussion in the impugned order on the petitioner’s representation in response to the show cause notice issued to him. The impugned order does not mention, as to why, the explanation of the petitioner was not acceptable to him.”

“31. On perusal of the impugned order as well as other documents relating to the departmental proceeding, copies of which have been brought on record in the present writ application, the Court forms an opinion that it was in the nature of bare formality, which was done on the part of the superior officers in the name of taking disciplinary action possibly to contain the public uproar arising after the occurrence, in which, 16 persons had died due to consumption of spurious liquor. No effort at all was made in right earnest to take disciplinary action against erring officials/personnel. The charges were framed on presumption of



knowledge of the police personnel regarding the illegal activities going on in the village concerned. No attempt was made by leading cogent evidence to establish that the petitioner was in fact aware of the illegal activities going on in the village, hardly 2 kms away from the Police Station and he failed to act in a matter befitting his duties and responsibilities.”

“32. In such view of the matter, the impugned order requires interference. The impugned order dated 15.06.2020, is accordingly set aside. The petitioner is directed to be reinstated forthwith. The consequences of quashing of the impugned order shall follow and accordingly the petitioner shall be entitled to the full salary and other emoluments for the period during which he remained out of service because of passing of an illegal order.”

17. As regards the plea of alternative remedy, the learned Writ Court observed in paragraphs ‘28’ and ‘29’ of the judgment as under:-

“28. A question may arise whether Bihar Police Manual has statutory character or not. As is evident from the preface of the Bihar Police Manual, the same appears to have been issued by and with the authority of the State Government under Section 7 and 12 of the Police Act V, 1861. The Police Act, 1861 has been repealed, to the extent the same relates to the State of Bihar, by the Bihar Police Act, 2007. Section 29 of the Bihar Police Act makes provisions for punishment, subject to the provisions of Article 311 of the Constitution of India. Nothing has been brought to the Court’s notice to show whether after enactment of Bihar Police Act, 2007 special provisions have been



made laying down procedure or the manner of imposition of punishment by way of disciplinary action. No clear stand has been taken on behalf of the State of Bihar, as to whether, the Bihar CCA Rules is being followed or the guidelines issued under Bihar Police Manual, for taking disciplinary action against police personnel.”

“29. Considering the nature of the impugned order, which has been passed in the present case, I need not go into the said aspect of the matter, suffice it to say that no clear decision of the State Government has been shown to this Court to the effect that the procedure laid down under Bihar Police Manual apply notwithstanding framing of Bihar CCA Rules in 2005. I, however, consider it appropriate to direct the Chief Secretary, Government of Bihar, to ensure that necessary clarification is issued by the State Government in accordance with law in respect of applicability or otherwise of Bihar Government Servants (Classification, Control & Appeal) Rules, 2005 for the police personnel in the State of Bihar in view of subsequent enactment of Bihar Police Act, 2007. It goes without saying that the State of Bihar may consider making appropriate statutory provisions so as to overcome any ambiguity in the provisions relating to taking of disciplinary action against police personnel in the State of Bihar.”

Submissions of the Appellant(s)

18. Mr. P.K. Verma, learned A.A.G. representing the State of Bihar (the appellant) in these appeals has merely reiterated the submission which was raised before the learned Writ Court. In



course of his submission, the learned Additional Advocate General-3 has submitted that the learned Writ Court is not correct in saying that an appeal under Rule 24 of the Bihar CCA Rules, 2005 may be preferred only in respect of the orders which are appealable under Rule 23 of the Bihar CCA Rules, namely, the order of suspension and order of punishment. The learned AAG-3 has assailed the views expressed by the learned Writ Court that in case of members of Civil Services, Group-C or Group-D, the appeal shall lie to the authority to which, the authority making the order appealed against is immediately sub-ordinate.

19. Learned A.A.G. submits that the findings of the inquiry officer having remained unchallenged and the petitioner(s) having accepted the punishment earlier imposed upon him/them by the disciplinary authority cannot question the punishment of his/their termination from service.

Submissions of the Respondent(s)

20. On the other hand, learned counsel for the petitioner(s)-respondent(s) have defended the impugned judgment of the learned Writ Court. It is their common submission that the present case is a case of no evidence. The petitioner(s) were proceeded against on mere assumption of the fact that they had knowledge of manufacturing of illicit liquor in the village. It is



submitted that the learned Writ Court has rightly held that perusal of the impugned order as well as the other documents relating to the departmental proceeding led to form an opinion that it was in the nature of a mere formality which was done on the part of the superior officer in the name of taking disciplinary action possibly to contain the uproar arising after the occurrence in which sixteen persons had died due to consumption of spurious liquor. No effort at all was made in right earnest to take disciplinary action against erring officials/persons. The learned Writ Court has categorically recorded in it's judgment that no clear stand has been taken by the State of Bihar, as to whether the Bihar CCA Rules or the guidelines issued under the Police Manual is being followed for taking disciplinary action against the police personnel. The learned Writ Court, in fact, directed to the Chief Secretary, Government of Bihar to ensure that necessary clarification is issued by the State Government in accordance with law in respect of applicability or otherwise of Bihar CCA Rules, 2005 for the police personnel in the State of Bihar in view of the subsequent enactment of Bihar Police Act, 2007.

Consideration

21. We have heard learned A.A.G. for the appellant-State of Bihar and learned counsel for the respondents. We would



first examine as to whether the learned Writ Court has committed any error in taking a view that Rule 853A (a) of the Police Manual and Rule 28 of the Bihar CCA Rules are two different and distinct provisions and the provisions of the Bihar CCA Rules 2005 in the matter of a remedy against an order of punishment would be applicable in case of members of Civil Services.

22. At first instance we take note of the fact that the Bihar CCA Rules 2005 has been framed by the Government of Bihar in exercise of its power conferred by the proviso to the Article 309 of the Constitution of India. Clause (d) of Bihar CCA Rules defines 'Civil Services Cadre' which means all classes of Civil Services of the State and it includes also all other similar cadre or extra cadre existing posts under the State Government of Bihar. Rule 4 under Part II provides for classification of Civil Services in four categories:- (i) Group- A, (ii) Group- B, (iii) Group-C and (iv) Group-D.

23. In the present case we are concerned with the applicability of the provisions of appeal against the order under 853A (a) of the Police Manual. So far as the provisions of appeal under the Bihar CCA Rules 2005 is concerned, Rule 23 and 24 under Part VII would be relevant, therefore, those are quoted hereunder for a ready reference:-



“23. Orders against which appeal lies. A Government Servant may prefer an appeal against order of suspension or order of punishment.”

“24. Appellate Authorities.- (1) A Government Servant, including a person who has ceased to be in government service, may prefer an appeal against the orders specified in Rule 23 to the authority specified in this behalf by a general or special order of the Government or, where no such authority is specified:-

(i) where such Government Servant is or was a member of Civil Service, Group-A or Group-B or holder of Civil Post, Group-A or Group-B,-

(a) to the appointing authority, where the order appealed against is made by an authority subordinate to it; or

(b) to the Government where such order is made by any other authority;

(ii) where such Government servant is or was a member of a Civil Service, Group-C or Group-D, to the authority to which the authority making the order appealed against is immediately subordinate.”

(2) There shall be no appeal against the orders of the Government, however, review petitions may be filed in the form of Memorials.

(3) Where the person, who made the order appealed against becomes, by virtue of his subsequent appointment or otherwise, the appellate authority in respect of such order, an appeal against such order shall lie to the authority to which such person is immediately subordinate or to an authority specially authorised for this purpose by the Government.”

24. Rule 28 of the Bihar CCA Rules 2005 provides for an another remedy i.e. a Revision. Rule 28 reads as under:-



“28. Revision.- Notwithstanding anything contained in these Rules,-

- (i) the Government, or
- (ii) the head of a department directly under the Government, in the case of a Government servant serving in a department or office, under the control of such head of a department, or
- (iii) the appellate authority, or
- (iv) any other authority specified in this behalf by the Government by a general or special order, and within such time as may be prescribed in such general or special order,

may at any time within six months of the date of the order proposed to be revised, either on his or its own motion or otherwise call for the records of any inquiry and revise any order made under these Rules or under the Rules repealed by the Rule 32 (from which an appeal is allowed but from which no appeal has been preferred or from which no appeal is allowed), after consultation with the Commission where such consultation is necessary, and may-

- (a) confirm, modify or set aside the order, or
- (b) confirm, reduce, enhance or set aside the penalty imposed by the order, or impose any penalty where no penalty has been imposed, or
- (c) remit the case to the authority, making the order or to any other authority, directing such authority, to make such further inquiry as he may consider proper in the circumstances of the case, or
- (d) pass such other orders as it may deem fit:

Provided that no order imposing or enhancing any penalty shall be made by any revising authority unless the Government Servant concerned has been given a reasonable opportunity of making a representation against the penalty proposed and where it is proposed to



impose any of the penalties specified in clauses(vi) to (x) of Rule 14 or to enhance the penalty imposed by the order sought to be revised to any of the penalties specified in those clauses, no such penalty shall be imposed without an inquiry in the manner laid down in Rule 17 and after giving a reasonable opportunity to the Government Servant concerned of showing cause against the penalty proposed on the evidence adduced during the inquiry and except after consultation with the Commission where such consultation is necessary:

Provided further that the power of revision shall be exercised by the head of department, unless-

- (i) the authority which made the order in appeal, or
 - (ii) the authority to which an appeal would lie, where no appeal has been preferred,
- is subordinate to him.

(2) No proceeding for revision shall be commenced until after

- (i) the expiry of the period of limitation for an appeal, or
- (ii) the disposal of the appeal, where any such appeal has been preferred.

(3) An application for revision shall be dealt with in the same manner as if it were an appeal under these Rules.”

25. At this stage, it is important to note that the Bihar CCA Rules 2005 has a repeal and savings provision contained in Rule ‘32’ which reads as under:-

“32. Repeal and Savings.- The Notification No.-III/RM01/63-8051 -A dated 3rd July, 1963 adopting the Civil Services (Classification, Control and Appeal) Rules, 1930 and the Bihar and Orissa Subordinate Services (Discipline and Appeal) Rules, 1935 as well as Notifications making amendments in the said two Rules are hereby repealed.



(2) All instructions issued under the Civil Services (Classification, Control & Appeal) Rules, 1930 and the Bihar and Orissa Subordinate Services (Discipline and Appeal) Rules, 1935 from time to time are hereby repealed.

(3) Anything done or any action taken in exercise of the powers under the Civil Services (Classification, Control & Appeal) Rules, 1930 and the Bihar and Orissa Subordinate Service (Discipline & Appeal) Rules, 1935 shall be deemed to have been done or taken in exercise of the powers conferred by or under those Rules as if those Rules were in force on the day on which such thing or action was done or taken.

(4) Nothing in these Rules shall operate to deprive any person of any right of appeal, which he would have had if these Rules had not been made in respect of any order passed before they came in force.

(5) Notwithstanding anything contained in these Rules any departmental proceedings initiated under the Rules repealed shall continue under those Rules including the Appeal preferred against any punishment imposed as if those Rules were still in existence.”

26. Now, we take a glance over some relevant provisions of the Police Manual. In Rule 834(a) imposition of black marks has been discussed. It provides that:

(a) As forfeiture affects pension, black marks may be awarded in appropriate cases to all officers of and below the rank of Inspector and to all ministerial officers of the department. Not more than one black mark shall be awarded for anyone offence except when more turpitude can reasonably be inferred.



(b) Three black marks shall ordinarily entail forfeiture or withholding of an increment, the period of which shall be specified in the order and after the period is over, the officer will be restored to his former position. Such forfeiture or withholding of an increment shall not carry any black mark value.

Rule 835 provides for effect of black marks, a reduction or forfeiture or withholding of increment for a specific offence shall carry the following black mark value:-

- (i) A reduction, etc. up to six months 1 black mark.
- (ii) A reduction, etc. up to twelve months..... 2 black marks
- (iii) A reduction , etc. for longer than twelve months... 3 black marks.

It further provides for whatever be the number of black marks in any one act of delinquency, it shall still count as one major punishment.

27. Rule 837 provides the general rules as to black marks.- Black marks shall remain permanently on record, and shall be taken into consideration in deciding the nature and extent of subsequent punishments subject to provision of rule 826 provided that due allowance shall be made for good service marks and any other recognition of good work on record in the delinquent's



favour. The order awarding black marks shall specify the number of black marks outstanding against the delinquent, and when the imposition of one more black mark may result in loss of increment under these rules, the order shall warn him that such is the fact.

28. Rule 838 talks of minor punishments. Rule 839 talks of punishment drill. Rule 851 (a) provides that no appeal shall lie except in cases of major punishment enumerated in rule 828. Rule 828 refers the punishment mentioned under Serial (a) to (f) of rule 824. Black mark is under serial (f) of Rule 824, therefore, this is appealable. Under clause (b) of Rule 851, an appeal against an order passed by a Superintendent shall lie before the Deputy Inspector General and by virtue of Clause (c) of 851, the orders of appellate authority shall be final subject to the provisions at Rule 853.

Rule 853 and 853A are required to be quoted hereunder for a ready reference:-

“853. Memorials and revision.- No memorial or petition, which is a representation against an order passed in a disciplinary case shall be submitted to any authority other than the authority which under the rule for the time being in force is empowered to entertain the appeal: Provided that an officer of the rank not below the rank of sub-Inspector may, if a final order of dismissal, removal, or reduction in rank has been passed in appeal against him in a disciplinary case, submit to Government through the proper channel a



memorial against such order, within six months after the date on which the officer submitting the memorial was informed of the order on appeal:

Provided further that memorials of and below the rank of Assistant Sub-Inspectors shall be entertained by Inspector-General only in cases of dismissal, removal or reduction in rank if they are submitted within a period of six months after the date on which the memorialst was informed of the order passed in the appeal:

Provided further that the Inspector-General shall submit quarterly to government a statement of memorials from Police officers below the rank of Sub-Inspector which have been withheld by him under the provisions of these rules.”

“853A. (a) Inspector-General may call for the file in any case even when no appeal lies and pass such order as he may deem fit. The Deputy Inspector-General may call for any file but he should refer it to the Inspector-General with his recommendation for his order. The above action should be taken within a reasonable time from the date of final order in departmental proceeding.

(b) Notwithstanding anything contained in these rules the State Government may call for the proceedings in any disciplinary case even when no appeal or memorial lies, and pass such order as it may deem fit.

(c) When an appeal has been filed and the Inspector-General on applying his mind thinks that he should enhance the punishment, he can dismiss the appeal but must simultaneously mention in that order that as per powers given in the rule 853A (a), he has decided to review it for enhancement and take action for obtaining a show cause, etc., where necessary.”



29. Bihar Police Manual have been discussed in the Full Bench Judgment of this Court in the case of **Kashi Nath Singh Vs. The State of Bihar and Ors. Reported in 2019(2) PLJR 293 (HC)**. The Hon'ble Full Bench has held that the Police Manual has got approval of the cabinet and has been notified under the orders of the Governor, will govern the field pertaining to the matters relating to the recruitment, appointment, promotion, punishment, transfer, leave, retirement etc., in the Police Service until by a legislative enactment, statutory rules are framed by the State Government. The Hon'ble Chief Justice presiding over the Full Bench has held in paragraph '6' of the judgment as under:-

“6. Even assuming for the sake of argument that the Bihar Police Manual is a compilation of administrative instructions or Government orders then if a pre-Constitution Act, namely the Police Act, 1861 has been taken recourse to for framing certain revised administrative instructions, they can also be construed to be in continuation of such laws and instructions (in the present case the Bihar and Orissa Police Manual, 1930) that were in force immediately before the commencement of the Constitution so as to save State action keeping in view the provisions of Article 313 of the Constitution of India. I would like to adopt the reasoning of the principle which leans in favour of even saving administrative instructions that may be necessary for governance in the absence of Statutory Rules or any law to the contrary. The Bihar Police Manual is a compilation which has continued to be observed for the purpose, as presently involved, for



appointments throughout the State in the Bihar Police Forces. It therefore has the mandate of the Government which in turn is entrusted with the obligation of governance including police administration being an exclusive State subject. The observance of the instructions contained in the Bihar Police Manual are binding on the State of Bihar and even it is argued that some of the provisions are directory in nature, then too even such provisions are not meant to be disobeyed or acted in breach thereof. A Division Bench of the Allahabad High Court while interpreting the provisions of Regulation 541 of U.P. Police Regulations relating to termination and period of probation held that the regulations did have mandatory force. The said judgment is in the case of **State of U.P. and Ors. vs. Radha Kishan and Anr.** (Writ Petition No. 8251 (S/B) of 1987) decided on 23.12.2009.”

“7. I am therefore inclined to hold that even though the compilation of the Bihar Police Manual cannot be described as rule or regulation having been framed in the exercise of powers under any statutory law, and may not partake the nature either of subordinate or delegated legislation, yet the Bihar Police Manual being binding on the Government, they deserve to be followed by the respondents so long as no rule is been framed in this regard.”

30. In the present case, admittedly, the Inspector-General-cum-Director General of Police has exercised his revisional power under Rule 853 A of the Bihar Police Manual. By no stretch of imagination, it may be held that the said order of the revisional authority in the Bihar Police Manual would be



appealable under Rule 24 of the Bihar CCA Rules. We, therefore, find that the views expressed by the learned Writ Court is perfectly right and is in consonance with the views of the Hon'ble Full Bench.

31. In course of hearing, in fact, Mr. P.K. Verma, learned A.A.G. is once again not in a position to show that the Bihar CCA Rules would be applicable in respect of the police personnel who are governed by the Police Manual. We, therefore, find no substance in the submission of learned AAG 3 on this score. The submissions are liable to be rejected.

32. As regards the punishment imposed by the Director General of Police in exercise of his revisional power is concerned, we are of the opinion that the views expressed by the learned Writ Court needs no interference. As discussed above, the black mark awarded to the writ petitioner(s) is a major punishment under Clause (f) of the Rule 824 of the Police Manual. It is an appealable order. Neither the writ petitioner(s) nor the Department preferred any appeal against the order passed by the disciplinary authority. Under Rule 853A (a) Inspector-General may call for the file in any case even when no appeal lies and pass such order as he may deem fit. Under the same provision, the Deputy Inspector-General may call for any file but he should refer it to the



Inspector-General with his recommendation for his order. This action should be taken within a reasonable time from the date of final order and departmental proceedings.

33. A reading of the complete scheme of Rule 853A would show that while clause (a) takes care of those cases in which no appeal lies, (emphasis supplied) Clause (C) of the Rule 853A provides that when an appeal has been filed and the Inspector-General on applying his mind thinks that he should enhance the punishment, he can dismiss the appeal but must simultaneously mention in that order that as per powers given in the rule 853A (a), he has decided to review it for enhancement and take action for obtaining a show cause, etc. where necessary.

34. It is to be remembered that this is not a case in which an appeal was filed before the Inspector-General-cum-Director General of Police. From reading of the orders impugned before the learned Writ Court passed by the respondent no. 3, it appears that the Deputy Inspector General of Police called for the records and referred the same to the Inspector-General-cum-Director General of Police whereupon the respondent no. 3 called for a show cause and on receipt of the same, took a view that the writ petitioners are guilty of doubtful conduct and dereliction in duty but the punishment awarded to him/them is lesser.



35. As noticed above, no appeal was filed in this matter hence the Inspector General-cum-Director General of Police had no occasion to exercise his power under clause (c) of Rule 853A of the Police Manual. In addition, the learned Writ Court has found that there is absolutely no discussion in the impugned order on the petitioners’ representation in response to the show cause notice issued to him. The impugned order does not mention as to why the explanation of the petitioner(s) was not acceptable to the respondent no. 3. We are, therefore, of the considered opinion that the impugned order(s) suffered from jurisdictional error for both the reasons. No infirmity or illegality may be found in the judgment of the learned writ court.

36. In result, these Letter Patent Appeals are dismissed, however, there will be no order as to cost.

(Rajeev Ranjan Prasad, J)

(Ramesh Chand Malviya, J)

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