

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9930 of 2022

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Sunil Kumar Singh Son of Late Sadanand Singh, Resident of Near Old
Agnisaman Seva, Gangjala, Satyanagar, P.O. and P.S. and District-Saharsa.

... .. Petitioner/s

Versus

1. The State of Bihar through its Secretary, Food and Consumer Protection Department, Government of Bihar, Patna.
2. The Secretary, Food and Consumer Protection Department, Government of Bihar, Patna.
3. The Special Secretary, Food and Consumer Protection Department, Government of Bihar, Patna.
4. The Officer-on-Special Duty, Food and Consumer Protection Department, Government of Bihar, Patna.
5. The Deputy Director (Food), Patna Division, Patna.
6. The Deputy Director (Food), Kosi Division, Saharsa, District-Saharsa.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Brisketu Sharan Pandey
For the Respondent/s : Mr. S. Raza Ahmad (AAG5)

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CORAM: HONOURABLE MR. JUSTICE ARVIND SINGH CHANDEL
ORAL JUDGMENT

Date : 25-07-2025

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

2. This petition has been preferred by the petitioner being aggrieved with the order dated 26.05.2022, Annexure-P/1 whereby and whereunder the respondent no. 3 has awarded the petitioner with major penalty of dismissal from the service under Rule 14 of the Bihar CCA Rules, 2005 and also challenged the order dated 23.02.2022, Annexure-/10, whereby



and whereunder the respondent no. 4 has issued second show cause notice to the petitioner differing with the opinion of enquiry officer and presenting officer without there being any reasons/materials on record for such difference of opinion.

3. The brief facts of the case is that the petitioner at the relevant point of time in the year 2013 was posted as Block Supply Officer, Fatuha, Patna. Departmental proceeding has been initiated against the petitioner. The presenting officer as well as enquiry officer was also appointed. The petitioner was served with memo of charge dated 26.09.2019, wherein no list of witnesses was prepared nor provided to the petitioner. The enquiry officer submitted its report (Annexure-P/9) on 09.02.2021 with finding that charges are partially proved and found that the petitioner cannot be held accountable for the misappropriation of paddy. On 23.02.2022 (Annexure-P/10), second show cause issued to the petitioner without recording any reason for difference or any evidence on record to show charge as has been proved against the petitioner. The second show cause was replied by the petitioner (Annexure-P/11). Subsequently, vide order dated 26.05.2022 (Annexure-P/1), petitioner has been dismissed from the services and hence, this petition.



4. Learned counsel for the petitioner submits that though the charge sheet has been issued to the petitioner but no list of witness showing list of documents were prepared by the department nor at the time of enquiry any witness was examined nor any document was tendared by any of the witness, in spite of that the enquiry officer wrongly arrived at the conclusion that the charges levelled against the petitioner are partialy proved. The enquiry officer only on the basis of submissions made by the presenting officer arrived on such type of conclusion, which is not in accordance with law. He further submits that the disciplinary authority without considering this aspect issued the second show cause to the petitioner without giving any reason for taking different view from the enquiry officer. Even after submission of the reply of show cause submitted by the petitioner, the disciplinary authority without considering the same passed the order of dismissal, which is liable to be set aside.

5. The State counsel opposes the arguments raised by the counsel for the petitioner and submits that taking into consideration the enquiry report as submitted by the enquiry officer, the disciplinary authority rightly passed the order impugned i.e. order of dismissal. He further submits that before



passing of such order, ample opportunity of hearing has been provided to the petitioner, therefore, it is prayed by the State counsel that the petition preferred by the petitioner is not liable to be set aside.

6. Heard learned counsels appearing for both the parties and perused the records as well as counter affidavit and the rejoinder submitted by the petitioner.

7. Perusal of the charge memo, Annexure-P/5, clearly shows that with the charge memo, no list of witnesses was prepared. Only five documents were referred for proving the case of the department against the petitioner. The enquiry report i.e. Annexure-P/9 shows that during course of enquiry, none of the witness has been examined by the enquiry officer. Only on the basis of the submissions made by the presenting officer and on the basis of some documents, the enquiry officer arrived at the conclusion that the charges levelled against the petitioner are partially proved. The documents, which has been relied upon by the enquiry officer, has not been tendered by any of the witness during course of enquiry, even after that the documents were relied by the enquiry officer. Perusal of the reply of the second show cause, as submitted by the petitioner, further shows that in his reply, he has categorically raised the



grounds that no witness was examined by the department and also raised the ground that the documents as demanded by him were also not provided by the enquiry officer during course of enquiry. In spite of that without going into the reply as submitted by the petitioner, i.e. Annexure-P/11, the disciplinary authority passed the order of punishment whereby the petitioner has been dismissed from the services.

8. Taking into consideration the facts that with the charge memo, no list of witness was prepared. Further at the time of enquiry proceeding also no witnesses were examined and further taking into consideration the fact that without tendering any of the documents, the enquiry officer only on the basis of submission made by the presenting officer arrived at the conclusion that the charges levelled against the petitioner are partially proved. The finding, as recorded by the enquiry officer, is not in accordance with evidence available on record. Virtually, it is a case of no evidence. The disciplinary authority while issuing the second show cause and at the time of passing of the order of dismissal has also not considered these aspects, therefore, on these grounds, I am of the view that the impugned orders are liable to be set aside.

09. Accordingly, the impugned orders dated



26.05.2022 (Annexure-P/1) and 23.02.2022 (Annexure-P/10)
are, hereby, set aside.

10. The petitioner is directed to be reinstated in his
services with all consequential benefits and necessary orders
shall be passed by the concerned respondent within a period of
one month from the date of receipt/production of a copy of this
order.

11. With the aforesaid observation and direction,
this writ petition is allowed.

(Arvind Singh Chandel , J)

shailendra/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	30.07.2025
Transmission Date	NA

