

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL REVIEW No.214 of 2022

In
Civil Writ Jurisdiction Case No.13075 of 2010

-
1. The State of Bihar through Principal Secretary Department of Home (Jail), Govt. of Bihar, Patna.
 2. The Principal Secretary, Department of Home (Jail), Govt. of Bihar, Patna.
 3. The Deputy Secretary to the Govt. of Bihar, Department of Home (Special), Patna.
 4. The Inspector General of Jail, Govt. of Bihar, Patna.
 5. The Superintendent of Jail, Mandal Kara, Bettiah.

... .. Petitioner/s

Versus

Sri Prakash Gupta S/o Late Dasrath Prasad R/o Moh.- Nehru Tola, P.S.- Chowk, Patna City In the District of Patna.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Deepak Sahay Jamuar (AC To AAG-4)
For the Opposite Party/s : Mr.

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

3 24-07-2025 Heard the parties.

2. The present review petition has been preferred for
the following relief(s):

*“for reviewing the order dated
12.12.2017 passed in CWJC No. 13075 of 2010
passed by Hon’ble Mr. Justice Shivaji Pandey (as
his lordship then was) by which the Hon’ble Court
was pleased to allow the writ filed petition by the
petitioner/respondent, quashing the order dated
06-11-2007 passed by the Principal Secretary*



(Home), the appellate authority and order dated 27-02-2007 passed by the Inspector General of Jail whereby the respondent/petitioner was demoted to the post of Clerk from the post of Assistant Jailor and also directed the respondent, if so advised, may hold a fresh enquiry in accordance with law.

3. The writ petitioner (since deceased) preferred CWJC No. 13075 of 2010 for the following relief:

“i. For quashing of order dated 27.2.2007 contained in memo no. 7-Ni.-74/2002-1522/Jail, Patna dated 27.2.2007 issued under the signature of Sandeep Paundrik, the Inspector General of Jail, Bihar. Whereby and where under the petitioner has been demoted to the post of Jail Clerk from the post of Assistant Karapal.

ii. Also for quashing of order dated 6.11.2007 contained -d in memo no. K./Kara/Aa. Ni.07.07-11855 dated 6.11.2007 issued under the Department of Home (Special), Government of Bihar, Patna, whereby and whereunder the appeal prefer by the petitioner to the Principal Secretary, Department of Home, Govt. of Bihar, Patna was



dismissed.

Also for directing and commanding the respondent to restore the petitioner at the post of Assistant Karapal will all consequential benefits.

iv. Also quashing the consequential communication to the petitioner under the letter dated 6.12.2007 contained in Memo no.7-N1-74/02-7362/Jail, Patna dated 6.12.2007 issued under the signature of Director (Administration), Department of Homa (Jail), Govt. of Bihar, Patna.

v. Also for any other relief/reliefs as this Hon'ble Court may deem fit and proper in the fact and on the circumstances of the present case.”

4. It is to be noted that the copies were served upon the office of the learned Advocate General, Bihar on 28.07.2010. The matter was taken up by a Bench of this Court [*Hon'ble Mr. Justice Shivaji Pandey* (as his lordship then was)] on 12.12.2017 and the Court after taking note of the fact that the inquiry proceeding suffers from inherent defect, it was quashed with liberty to the respondents to hold fresh inquiry in accordance with law.

5. Aggrieved, the present review petition.



6. It is again to be noted that this order of the learned Writ Court was passed in the year 2017 and five years later, in the year 2022, the review petition has been filed against the original writ petitioner, Sri Prakash Gupta who is no more. It has been informed by learned State counsel that the widow, Most. Neelam Devi and the heirs subsequently preferred **CWJC No. 22129 of 2014 (*Most Neelam Devi and Ors. vs The State of Bihar & Ors.*)** against the dismissal order of her late husband by the State-respondents and the date of filing is **07.11.2014** which clearly shows that the original writ petitioner died prior to that.

7. Despite the knowledge of the aforesaid facts, five years later, when the review petition was filed, instead of making Most. Neelam Devi/heirs as opposite parties in the present review petition, it is Sri Prakash Gupta (since deceased) who has been impleaded as the sole opposite party.

8. The concluding part of the Writ Court's order dated 12.12.2017 read as follows:-

This Court finds that the enquiry proceeding suffers from inherent defect, cannot be upheld in the court of law which resulted into the passing of illegal order, affirmed by the appellate



authority. In that view of the matter, the order dated 6.11.2007 passed by the Principal Secretary (Home), the appellate authority, and the order dated 27.2.2007 passed by the Inspector General of Jail, Bihar are set aside, the enquiry proceeding itself is vitiated and the same cannot be sustained. Similarly, the enquiry report is also quashed. The respondents, if so advised, may have a fresh enquiry in accordance with law.

In the result, this writ application stands allowed to the extent indicated above.”

9. A perusal of the Writ Court's order would show that liberty was granted to the State-respondents to hold inquiry and according to learned State counsel, subsequently, the petitioner was dismissed on 11.03.2014. However, the claim of the review petitioner is that this fact was not brought on record by the writ petitioner necessitating this review petition.

10. The Writ Court took up the matter in the year 2017 i.e. much after the death of the writ petitioner and for seven years, when the State was provided copies of the writ petition, they chose not to file any counter-affidavit bringing on record the dismissal order.



11. Upon query by the Court why the State-respondents chose to remain silent and not filed counter-affidavit bringing on record the later development, there is no answer.

12. Upon further query as to when the State-respondents had complete knowledge that against the dismissal of Sri Prakash Gupta, his widow has preferred petition on 07.11.2014, why after the disposal of the writ petition in year 2017, in the year 2022, Sri Prakash Gupta (died in 2014 itself) has been made party, again there is no answer.

13. Clearly, the writ Court only wanted an inquiry into the matter and if any dismissal order was passed, and not brought on record, if any fault lies, it is squarely on the part of the State-respondents.

14. The conducting lawyer of the **CWJC No. 13075 of 2010** (filed by the deceased, Sri Prakash Gupta) was Mr. Sunil Kumar whereas **Most. Neelam Devi** is being represented by **Bam Bahadur Jha** as per the website record.

15. In that background, putting the ball in the court of the widow of having failed to bring on record the subsequent development in the opinion of the Court is harsh in the backdrop of the fact that the State themselves chose not to file any



counter-affidavit for seven long years.

16. It is again to be noted that the review petition has been filed (in the year 2022) five years after the writ petition was disposed of in the year 2017 with the sole view to harass the widow/heirs.

17. In that background, the review petition stands dismissed with a cost of Rs. 5,000/- to be handed over to the widow, **Most. Neelam Devi** within a period of four weeks from today failing which appropriate steps be taken, in accordance of law, for realization of the amount.

18. The respondents are free to realize the amount from the officer who five years later took decision to file the review petition.

(Rajiv Roy, J)

Adnan/-

U			
---	--	--	--

