

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.18590 of 2018

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Harish Kumar Son of Late Sheo Kumar Singh @ Shiv Kumar Singh, Resident of Mohalla Chitragupta Nagar, Teachers Colony, P.S.Patrakar Nagar, Kankarbagh, District Patna, Presently Posted at Utkramit Madhya Vidyalaya Azimchak, Block Sampatchak,, P.S. Gaurichak, Distirct Patna.

... .. Petitioner/s

Versus

1. The State Of Bihar through the Principal Secretary Department of Education, Government of Bihar, Patna
2. The Principal Secretary Department of Education, Government of Bihar, Patna.
3. The Director, Primary Education, Government of Bihar, Patna.
4. The Regional Deputy Director Education, Patna Division, Patna.
5. The District Education officer, Patna.
6. The District Programe Officer, Establishment, Patna.
7. The District Programe Officer, Sarva Shiksha Abhiyan, Patna
8. The Block Education Officer, Daniyawa
9. The Block Education Officer, Mokama-Cum-Enquiry Officer,
10. The Block Education Officer, Fatuha Cum Presenting Officer
11. The Block Education Officer, Bihar, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Ajay Kumar Thakur, Advocate Mr. Krishna Chandra, Advocate
For the Respondent/state :		Mr. Jitendra Kr. Roy-1 Sc13 Mr. U.K. Singh, AC to SC 13

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
CAV JUDGMENT

Date : 16 -10-2025

1. By way of the instant writ application the petitioner has prayed for quashing the order contained in Memo No. 839 dated 16.07.2018 passed by the Regional Deputy Director of Education, Patna Division, Patna whereby service appeal preferred by the petitioner has been rejected. The petitioner has



further prayed for quashing the order of punishment contained in Memo No. 567 dated 27.01.2018 passed by District Programme Officer (Establishment), Patna, imposing punishment of recovery of Rs. 14,15,000/- from the salary of the petitioner and withholding of two annual increments with cumulative effect.

2. The brief facts of the case is that the petitioner was appointed on the post of Assistant Teacher on 20.06.1987 at Middle School, Harnichak, Phulwarisharif, Patna. He was promoted on 31.07.2010 to the post of Graduate Teacher (Science). Consequent upon his promotion, he was transferred from Primary School, Kali Asthan, Malsalami, Patna City to Uttkramit Middle School, Maksoodpur, Fatuha, Patna, where he joined on the promoted post. Subsequently, the petitioner, being the senior-most teacher in the said school, submitted an application dated 27.09.2010 before the Block Education Officer, Fatuha, requesting that he should be given the charge of Headmaster on the basis of seniority. Pursuant thereto, the petitioner was given the charge of Headmaster and was later given additional charge of Kasturba Gandhi Balika Vidyalaya, Fatuha, on 07.05.2011. The petitioner discharged his duties as In-charge Headmaster of the Kasturba Gandhi Balika Vidyalaya



from 07.05.2011 to 03.10.2012. At this juncture, learned counsel for the petitioner submits that during the aforesaid period, the petitioner upon taking charge of Kasturba Gandhi Balika Vidyalaya, Fatuha found several irregularities in maintaining the stock register, receipt of bills etc. by his predecessor and he brought all these facts to the notice of the District Programme Officer (Primary Education) as well as Sarva Shiksha Abhiyan, Patna through his application dated 22.10.2011 (Annexure- 1).

3. Thereafter, on one fine morning, an inspection was done by the District Programme Officer, Sarva Shiksha Abhiyan, Patna and pursuant to his recommendation the District Programme Officer (Establishment), Patna, put the petitioner under suspension with immediate effect vide office order dated 29.08.2012 contained in Memo No. 6628 in contemplation of departmental proceeding. However, on the same date, the District Programme Officer (Establishment), Patna, recalled and stayed the said order only with respect to suspension vide Memo No. 6648.

4. Thereafter, once again, vide Office Order dated 31.10.2012 contained in Memo No. 8662 issued by the District Programme Officer (Establishment), Patna, the petitioner was put under suspension. Subsequently, vide Office Order of the



same date contained in Memo No. 8663 issued under the signature of the District Programme Officer (Establishment), Patna, the petitioner was served with memo of charge in Form 'K' and was directed to submit his written reply within 15 days before the Enquiry Officer. It was further directed that the Enquiry Officer shall submit the enquiry report to the District Programme Officer (Establishment), Patna, within 30 days.

5. Thereafter, the Enquiry Officer vide letter no. 31 dated 14.01.2013 asked the petitioner to file his reply and pursuant thereto, the petitioner submitted his written reply. Thereafter, Block Education Officer, Mokama -cum- Enquiry Officer, submitted enquiry report vide Memo No. 110 dated 25.02.2013. A copy of the enquiry report is annexed as Annexure- 8 to the writ petition. On the basis of the enquiry report, the District Programme Officer, Establishment, Patna vide Memo No. 2048 dated 02.03.2013 revoked the petitioner's suspension and posted him to Uttkramit Madhya Vidyalaya, Azimchak, Sampat Chak, Patna.

6. Thereafter, after a long gap of about two years, the District Programme Officer issued a second show-cause notice vide letter no. 1772 dated 25.02.2015 wherein the allegation of defalcation of Rs. 5,16,500/- in Kasturba Gandhi Balika



Vidyalaya, Fatuha was alleged against the petitioner and he was asked to submit his reply within 30 days. In view of the aforesaid, the petitioner submitted his reply denying all charges, especially the allegation of defalcation and also requested the authorities to get the audit of account done. In order to verify the correctness of the petitioner's explanation, the District Education Officer, Patna, vide Memo No. 141 dated 07.01.2016, constituted a three member committee under the Chairmanship of the Block Education Officer, Daniyawan along with the Accounts Officer, Sarva Shiksha Abhiyan and Accountant, Masaurhi to examine the records and submit its findings. The three-member committee submitted its report vide letter no. 120 dated 15.03.2016 wherein it was observed that the allegations appears to be true but as per report of the committee the alleged defalcation amount came to Rs. 17,67,000/- which was contrary to the earlier finding which was Rs. 5,16,500/- .Thereafter, vide letter no. 3713 dated 25.05.2016 a second show-cause notice was issued to the petitioner by District Programme Officer, Establishment, Patna asking him to submit his reply within 30 days to which the petitioner submitted his reply dated 31.05.2016 denying the allegations and reiterating his earlier defence.



7. Again, the District Programme Officer (Establishment), Patna, vide Office Order contained in Memo No. 5740 dated 24.08.2016 placed the petitioner under suspension and re-initiated departmental proceeding by appointing Sri Ramesh Chandra, Programme Officer, Mid-Day-Meal Programme, Patna as Enquiry Officer and the Block Education Officer, Fatuha, as Presenting Officer, who had earlier also functioned as the Enquiry Officer whereafter District Programme Officer (Establishment), Patna, again issued a supplementary memo of charge in Form 'K' dated 23.08.2016 to which the petitioner submitted his reply on 18.10.2016 furnishing complete details of accounts along with supporting documents in defence of the said charges.

8. The second Enquiry Officer submitted his enquiry report vide letter no. 747 dated 16.03.2017 to the District Programme Officer (Establishment), Patna. Vide letter no. 3460 dated 27.04.2017 a second show-cause notice was issued again to the petitioner under the signature of the District Programme Officer (Establishment), Patna stating therein that the Enquiry Officer has submitted his enquiry report in which all allegations were found to be true and he was asked to file his reply within 7 days without enclosing a copy of the enquiry report. In reply to



the same, the petitioner requested and sought supply of certain documents essential for submitting an appropriate reply by application dated 05.05.2017.

9. When, even after a lapse of about six months from the date of submission of the said enquiry report, no final order was passed by the Disciplinary Authority, the petitioner filed an application dated 07.08.2017 before the District Programme Officer (Establishment), Patna, requesting revocation of the order of suspension during the pendency of departmental proceeding. Thereafter, after a lapse of more than ten months from the date of submission of enquiry report, the District Programme Officer (Establishment) passed order of punishment contained in Memo No. 567 dated 27.01.2018, directing recovery of Rs.14,15,000/- at the rate of Rs. 25,000/- per month from the petitioner's salary and also ordered withholding of two increments with cumulative effect (Annexure- 22). Being aggrieved by the order of punishment contained in Memo No. 567 dated 27.01.2018 the petitioner preferred an appeal before the Regional Deputy Director of Education, Patna Division. However, the said appeal was rejected vide order contained in Memo No. 523 dated 13.04.2018 merely on the ground that the writ application being C.W.J.C. No. 11287 of 2016 filed by the



petitioner was pending before this Court.

10. Learned counsel for the petitioner at this juncture informed this Court about the background in which C.W.J.C. No. 11287 of 2016 was filed and submits that immediately after submission of the report by the three-member committee suggesting alleged defalcation of Rs.14,15,000/-, the District Programme Officer (Establishment), Patna, vide his Office Order contained in Memo No. 4315 dated 13.06.2016 had directed the petitioner to deposit the said amount within fifteen days. Against this direction, the petitioner had preferred the writ application being C.W.J.C. No. 11287 of 2016 before this Court. The aforesaid writ petition was heard on 24.04.2018 and was disposed of with liberty to the petitioner to file a fresh representation along with a copy of the order before the Regional Deputy Director of Education, Patna Division, for re-hearing of the appeal on its own merit within a period of one month from the date of receipt/production of the copy of the order. In pursuance of the aforesaid order the petitioner filed a detailed memo of appeal dated 07.05.2018 annexing all the relevant documents in support of his defence against the levelled charges. The appeal of the petitioner was arbitrarily rejected without assigning any reason.



11. Mr. Ajay Kumar Thakur, learned counsel for the petitioner submits that there is procedural and substantive defect in holding departmental proceeding inasmuch as no oral enquiry was conducted by the Enquiry Officer and neither any date was fixed for hearing in the departmental proceeding nor any witnesses were examined in order to bring home the charges. The Presenting Officer did not produce any documentary evidence or oral witness in support of the charges. The Enquiry Officer without adhering to the procedure laid down under Rule 17 of the Bihar Government Servants (Classification, Control & Appeal) Rules, 2005 (for short 'Bihar C.C.A. Rules, 2005') submitted his enquiry report vide letter no. 747 dated 16.03.2017. The copy of the enquiry report was never served upon the petitioner. The service appeal preferred by the petitioner was dismissed without appreciating the documents brought on record by the petitioner and ignoring the fact that neither any documentary evidence was exhibited nor any witness was produced by the Presenting Officer during course of enquiry and this was a case of no evidence. That non-application of mind by the Appellate Authority is further evident from the fact that even payment of salary through bank accounts to teachers and staffs was not taken into consideration. During



the entire period when the petitioner was holding the post of Headmaster -cum- Incharge, Kasturba Gandhi Balika Vidyalaya, there was no complaint whatsoever from any teacher or staff regarding non-payment of salary. This fact itself falsifies the allegations and findings recorded in the order under challenge.

12. Learned counsel further submits that in exercise of powers conferred under Rule 31 of the Bihar C.C.A. Rules, 2005 the Government of Bihar has framed Bihar Framing of Articles of Charge Against Government Servants Regulations, 2011. A plain reading of the said Regulation makes it clear that where a government servant is proceeded against departmentally, the disciplinary authority is required to draw up definite and distinct articles of charges supported by a statement of imputation of misconduct or misbehaviour together with a list of documents and witnesses proposed to sustain the charges. However, in the present case, although Form 'K' was issued to the petitioner, the same was done mechanically and without material basis and the petitioner was not provided with the list of documents and a list of witnesses by whom the articles of charge are proposed to be sustained. The article of charges were vague and non -specific.

13. He next argued that despite statutory obligation upon



both the Enquiry Officer and the Presenting Officer to substantiate the charges by producing witnesses and material documents, in the instant case, no such evidence was ever produced. The petitioner had, in fact, identified specific documents which could have established his innocence but the same were never examined or called for.

14. The Bihar C.C.A. Rules, 2005 prescribes a detailed procedure under Rule 17 for imposing major penalties. From a plain reading of Rule 17(5)(c) it is clear that it is mandatory that a Presenting Officer be appointed to present the departmental case and Rule 17(11) read with Rule 17(14) mandates that the Presenting Officer must produce oral and documentary evidence in support of the article of charges and examine the witnesses concerned. From perusal of the Rule, it is clear that the word “shall” is used, which denotes a mandatory obligation. Hence, the production of oral and documentary evidence by the Presenting Officer is not discretionary but a statutory requirement under the Rule which has not been followed in the present case.

15. He further submits that Enquiry Officer acts as an independent quasi-judicial authority and not as a representative of the Department. The law, therefore, requires that the



Presenting Officer presents the Department's case, while the Enquiry Officer remains neutral and independent adjudicator, but in the present case, despite appointment of a Presenting Officer, the Enquiry Officer acted on his own by- passing the mandatory provisions of Rule 17. Accordingly, submission is that non-production of oral or documentary evidence by the Presenting Officer and the pre-determined and biased approach of the Enquiry Officer, the petitioner has been prejudiced at every stage of the proceeding. The findings recorded against the petitioner are thus based on no evidence and the entire proceeding amounts to a farce having been conducted in flagrant violation of the Bihar C.C.A. Rules, 2005 and the principles of natural justice.

16. It has further been submitted that first departmental proceeding had already been initiated against the petitioner, pursuant to which the Enquiry Officer had submitted his enquiry report before the Disciplinary Authority. However, without completing the said proceeding and without recording any reasons on the findings of the first enquiry report, the respondents authorities proceeded to initiate another departmental proceeding on the same set of allegations. If the Disciplinary Authority was not satisfied with the findings of the



first enquiry report, it was incumbent upon him to record his disagreement with the findings and remit the matter for further enquiry as contemplated under Rule 18(1) of the Bihar C.C.A. Rules, 2005. Upon such remittance, the Enquiry Officer was required to proceed in accordance with the procedure prescribed under Rule 17. However, in the present case, none of the prescribed procedures has been followed. The Disciplinary Authority, instead of exercising his powers under Rule 18(1), arbitrarily initiated a fresh departmental proceeding, which is wholly illegal, arbitrary, and unsustainable in law. Lastly, it has been submitted that entire sequence of actions from issuance of repetitive charge memos based on same allegations, constitution of multiple enquiry committees, constitution of a 3-member committee behind the back of the petitioner, non-supply of enquiry report, list of documents and evidences enhancement of the alleged defalcation amount without basis and continuous suspension clearly establishes a mala fide, arbitrary, and vindictive approach adopted by the respondent authorities against the petitioner.

17. Per contra, learned counsel for the State argued that the petitioner was suspended for committing irregularities in the operation and management of the Kasturba Gandhi Balika



Vidyalaya, Fatuha. While he was made In-charge Headmaster of that school, a departmental proceeding was initiated against the petitioner; charges were framed and enquiry report was submitted with finding that petitioner had misappropriated government funds amounting to Rs. 5,16,500/-. It was on the request of the petitioner for re-verification of the records, vouchers of expenditure incurred in operating the school, a three member committee was constituted by the District Education Officer. The committee submitted its report with finding that there was fraudulent withdrawal of Rs. 14,15,000/- on the basis of fake vouchers and recommended recovery of the said amount.

18. Thereafter, supplementary charges were framed and the petitioner was again put under suspension. The Enquiry Officer was again appointed who submitted his report on 16.03.2017 holding the charges proved. The petitioner was served with a second show-cause notice by the disciplinary authority but he failed to furnish any satisfactory reply or evidence.

19. Accordingly, the disciplinary authority, after due consideration, passed the punishment order of recovery and withholding of two annual increments with cumulative effect.



The Appeal filed by the petitioner was dismissed by the appellate authority. The departmental proceeding was conducted as per law and there is no procedural lapses in conducting the departmental enquiry.

20. I have heard learned counsel for the parties and have gone through the material on record including the impugned order of punishment and the appellate order.

21. From perusal of the records it appears that the petitioner, while serving as a Graduate Teacher (Science) and functioning as In-Charge Headmaster-cum-Sanchalak of Kasturba Gandhi Balika Vidyalaya, Fatuha, was initially placed under suspension on 29.08.2012 and was served with a Memo of Charge dated 31.10.2012 containing six allegations, namely:

- (1) irregularity in food quality of students;
- (2) diversion of government funds;
- (3) negligence of duty;
- (4) improper maintenance of cash register;
- (5) indifference towards the future of girl students; and
- (6) non-payment of honorarium to part-time teachers.

22. However, a bare perusal of the said memo of charge reveals that no list of documents nor list of witnesses proposed to prove the said charges was annexed thereto, which is violation of the statutory mandate of Rule 17(6) of the Bihar



C.C.A. Rules, 2005.

23. The Enquiry Officer, namely the Block Education Officer, Mokama, submitted his report dated 25.01.2013, wherein the first and sixth charges were found not proved, while charges two to five were held “proved.” Notably, there is no mention anywhere in the said report that the Enquiry Officer had fixed any date of hearing for holding enquiry and the Presenting Officer had adduced any oral or documentary evidence in support of the allegations or that any witness was examined in presence of the petitioner.

24. The findings of the Enquiry Officer rests merely on the subjective satisfaction of the Enquiry Officer without any supporting material. From perusal of the enquiry report it appears that the Enquiry Officer has arrived at the finding on the basis of consultation made with the Department Officers, the records of the Kasturba Gandhi Balika Vyalaya unilaterally and the explanation upon the charges submitted by the petitioner. All these were done behind the back of the petitioner and without giving any opportunity to the petitioner to rebut the evidence collected by the Enquiry Officer. The disciplinary authority instead of either accepting or disagreeing with the findings in accordance with Rule 18 of the Bihar C.C.A. Rules,



2005, proceeded to constitute a new three member committee and subsequently directed for initiation of fresh proceeding. Again a memo of charge dated 24.08.2016 bearing memo no. 5740 was served upon the petitioner.

25. At this juncture, the judgment of Division Bench of this Court passed in LPA No. 1653 of 2016 shall be relevant. In paragraph no. 2 of the judgment of the Division Bench it has been observed that:-

“02. Perusal of the Bihar Government Servant (Classification, Control and Appeal) Rules, 2005, it is evident that the disciplinary authority has no power to amend the charge at the stage of consideration of inquiring officer’s report / finding. The disciplinary authority had option of either accepting or rejecting the finding of the Inquiring Officer’s report or in the event of disagreeing with the inquiry officer report or finding. In that event disciplinary authority has option of issuing of show cause notice to the concerned person to the extent of disagreeing with the inquiring officer’s report or finding and he had option of remanding the matter to the inquiring authority to commence the inquiry from the defective stage and complete the process of inquiry or he / she can complete the inquiry. On the other hand, in the present case disciplinary authority proceeded to amend the charge and ordering fresh inquiry. Such procedure is not in consonance to the law for the



reason that Bihar Government Servant (Classification, Control and Appeal) Rules, 2005 do not provide for such procedure. In fact, the petitioner in para 25 and 56 of the writ petition has specifically contended that ordering fresh inquiry is bad in law.”

26. In this context, the judgment of this Court reported in 2021(2) BLJ 117 Ashok Kumar versus The State of Bihar & Ors. is also relevant. In paragraph no. 9 of the same this Court has held as follows:-

“9. No provision under the Rules contemplates a second departmental inquiry. In case, a disciplinary authority notices any serious defect having crept into the inquiry or some important witnesses could not be examined because of their nonavailability, he could have remitted the matter back to the Enquiring Authority for further inquiry as contemplated under sub-rule (1) of Rule 18 of the Rules.”

27. The second memo of charge too contains six allegation – (1) embezzlement of Rs. 14,15,000/- , (2) fraud and cheating with the department, (3) hindrance in students’ education (4) negligence of duty, (5) indifference towards the students’ future, and (6) violation of conduct rules.

28. Except for the first charge regarding the alleged defalcation, the remaining five charges are vague, indefinite,



and bereft of particulars. Further, this memo of charge also does not disclose any list of witnesses or documents relied upon, which is contrary to the Rules, thereby depriving the petitioner of a fair opportunity to defend himself.

29. The record further indicates that the Presenting Officer, despite being appointed, did not produce any evidence or examine any witness in the course of the enquiry. The date of enquiry was never fixed. The Enquiry Officer submitted the enquiry report and relied solely upon certain documents allegedly produced by the department but admittedly never supplied to the petitioner and no opportunity of inspection or cross-examination was afforded to the petitioner. No oral witness was also produced by the Presenting Officer during the course of enquiry. Such an enquiry, therefore, was conducted in flagrant violation of the principles of natural justice and the statutory scheme contemplated under Rule 17 of the Bihar C.C.A. Rules, 2005.

30. It is a settled proposition of law that an Enquiry Officer acts as a quasi-judicial authority and not as a representative of the department. The role of the Presenting Officer is distinct to lead evidence in support of the charges and produce witnesses for examination. The Enquiry Officer cannot



himself assume the dual role of prosecutor and judge.

31. Reliance is being placed on the judgment of the Hon'ble Supreme Court in the case of Anil Kumar v. Presiding Officer reported in AIR 1985 SC 1121 in which the Supreme Court has held that an enquiry report with regard to a departmental enquiry conducted by the Enquiry Officer should not be based on the ipse dixit of the Enquiry Officer. It should show as to what are the charges levelled against the petitioner, how the departmental enquiry was conducted, what was the evidence that came on record, it should show analysis of the evidence and conclusion of the Enquiry Officer based on reason to show that the evidence that came before the Enquiry Officer was analyzed in the backdrop of the explanation submitted by the petitioner and he holds the delinquent employee guilty of the charges levelled against him. If the report of the Enquiry Officer does not meet the aforesaid requirement of law, it is a total violation of the principles of natural justice and based upon such enquiry report, no punishment can be imposed upon a delinquent employee.

32. Paragraph no. 5 & 6 of the Anil Kumar (Supra) is quoted hereinbelow:-

5. It is well-settled that a disciplinary enquiry has to be a quasi-judicial enquiry held according to the



principles of natural justice and the Enquiry Officer has a duty to act judicially. The Enquiry Officer did not apply his mind to the evidence. Save setting out the names of the witnesses, he did not discuss the evidence. He merely recorded his ipse dixit that the charges are proved. He did not assign a single reason why the evidence produced by the appellant did not appeal to him or was considered not creditworthy. He did not permit a peep into his mind as to why the evidence produced by the management appealed to him in preference to the evidence produced by the appellant. An enquiry report in a quasi-judicial enquiry must show the reasons for the conclusion. It cannot be an ipse dixit of the Enquiry Officer. It has to be a speaking order in the sense that the conclusion is supported by reasons. This is too well settled to be supported by a precedent. In *Madhya Pradesh Industries Ltd. v. Union of India* [AIR 1966 SC 671 : (1966) 1 SCR 466 : (1966) 1 SCJ 204] this Court observed that a speaking order will at best be a reasonable and at its worst be at least a plausible one. The public should not be deprived of this only safeguard. Similarly in *Mahabir Prasad v. State of U.P.* [AIR 1966 SC 671 : (1971) 1 SCR 201] this Court reiterated that satisfactory decision of a disputed claim may be reached only if it be supported by the most cogent reasons that appealed to the authority. It should all the more be so where the quasi-judicial enquiry may result in deprivation of livelihood or attach a stigma to the character. In this case the enquiry report is an order sheet which merely produces the stage through which the enquiry passed. It clearly disclosed a total non-application of mind and it is this report on which the General Manager acted in terminating the service of the appellant. There



could not have been a more gross case of non-application of mind and it is such an enquiry which has found favour with the Labour Court and the High Court.

6. Where a disciplinary enquiry affects the livelihood and is likely to cast a stigma and it has to be held in accordance with the principles of natural justice, the minimum expectation is that the report must be a reasoned one. The Court then may not enter into the adequacy or sufficiency of evidence. But where the evidence is annexed to an order sheet and no correlation is established between the two showing application of mind, we are constrained to observe that it is not an enquiry report at all. Therefore, there was no enquiry in this case worth the name and the order of termination based on such proceeding disclosing non-application of mind would be unsustainable.”

33. The entire enquiry proceeding was held in gross violation of statutory provision, procedural violation and principles of natural justice on the following reasons:-

1. Absence of list of documents and witnesses with the charge memo;
2. No oral or documentary evidence produced by the Presenting Officer;
3. No opportunity of cross-examination to the petitioner;
4. No independent assessment of evidence by the Enquiry Officer;
5. Vague and repetitive charges not based on definite acts of misconduct.



6. Multiple parallel proceedings initiated successively, without concluding the first enquiry;

34. In another judgment of this Court in the case of in S.K. Verma versus The State of Bihar reported in 2000(1) PLJR 116 in paragraph no. 16 it has been held as follows:-

“In view of the fact that during the inquiry no witness was examined, this Court holds that the charges against the petitioner cannot be said to have been proved. It is a well known principle that at the stage of inquiry the petitioner is entitled to be given a reasonable opportunity to cross-examine the witnesses who are produced to prove the charges. The petitioner also has a right to adduce evidence by producing witness. It is well known that at this stage provision of the Indian Evidence Act does not apply. But, the substantial principles of Evidence Act are to be observed in a departmental enquiry also.”

35. Coming back again to the facts of the present case, I find that the Presenting Officer during course of enquiry did not produce oral evidence or any documentary evidence in presence of the delinquent-petitioner to prove the charges by examining the witnesses. The Enquiry Officer in such circumstances has



grossly erred by arrogating this role upon himself to prove the charges by collecting documents from the department files, analyzing explanation submitted by the petitioner as well as the Presenting Officer.

36. From perusal of the memo of charge it is clear that the memo of charge does not contain list of documents and witnesses by which the Department proposes to prove / sustain the article of charges. Accordingly, on this ground alone the departmental inquiry has vitiated.

37. Considering the conspectus of facts and the law discussed hereinabove, this Court is of the opinion that enquiry has vitiated on the ground that along with the memo of charge the list of documents and witnesses by which the article of charges were proposed to be proved / sustained were not provided to the petitioner as required under Rule 17(3) of the Bihar C.C.A. Rules 2005. Accordingly, the memo of charge is hereby quashed.

38. During the course of enquiry no oral witness / evidence was examined, documents were produced behind the back of the petitioner by the Presenting Officer and the same were not proved during the course of enquiry in presence of the petitioner.



39. Accordingly, in my opinion the enquiry has also vitiated and the Enquiry Officer has failed to discharge his duties as an independent adjudicator.

40. Resultantly, I hold that the charges against the petitioner cannot be said to have been proved. In the result, the order of punishment dated 27.01.2018 and the appellate order 16.07.2018 are hereby quashed.

41. Since this Court has quashed the memo of charge, the enquiry report, the order of punishment and consequential order of appeal passed by Regional Deputy Director of Education, Patna Division the petitioner is entitled to be paid all consequential benefit including monetary benefit and refund of amount which has been realized, if any, pursuant to the order of punishment. I order accordingly.

(Anil Kumar Sinha, J)

praful/-

AFR/NAFR	AFR
CAV DATE	23-09-2025
Uploading Date	16-10-2025
Transmission Date	NA

