

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15168 of 2025

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Vidya Bhushan Dwivedi S/o Ram Suresh Dubey, R/o Vill.- Majhwalia, P.S.-
Siwan, Dist.- Siwan, Bihar. Petitioner/s

Versus

1. The State of Bihar Through the Chief Secretary, Government of Bihar, Patna.
 2. The Principal Secretary, Law Department, Govt. of Bihar, Patna.
 3. The Registrar General, Patna High Court, Patna.
 4. The Registrar (Administration), Patna High Court, Patna.
 5. The then Principal District and Sessions Judge-cum-Disciplinary Authority, Siwan.
 6. The Judge-in-Charge (Administration), Civil Court, Siwan.
 7. Smt. Sonali, Court Manager, Civil Court, Siwan, through Respondent No.6.
- Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Shubhesh Pandey, Advocate Mr. Amit Kumar Mishra, Advocate
For the Respondent/s	:	Mr.Sitaram Yadav, GP16 Mr. Yatindra Narayan, AC to GP16 Mr. Piyush Lal, Advocate

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CORAM: HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL ORDER

- 2 03-11-2025 1. Heard learned counsel for the petitioner and learned
counsel for the respondent nos. 3 to 6.
2. The petitioner has filed the instant application for
the following reliefs:

*“a) For issuance an appropriate writ, order, or
direction restraining (Respondent No. 5), the
Principal District & Sessions Judge, Siwan, cum
Disciplinary Authority from continuing to
function as the Disciplinary Authority in the
petitioner's case, as his continuance would
manifestly transgress the cardinal principles of
natural justice, he being himself person*



interested party.

(b) For issuance of an appropriate writ, or writ in the nature of Certiorari for quashing the impugned Memo No. 245A/2025 (Annexure P/3) dated 22.07.2025, whereby departmental proceedings have been set in motion against the petitioner; and further for quashing the consequential Order No. 260A/2025 (Annexure P/4) dated 06.08.2025, whereby the petitioner's legitimate prayer for extension of time to file his written statement of defence was unceremoniously rejected, the enquiry was formally instituted, and an Enquiry Officer along with a Presenting Officer was appointed; said orders being wholly arbitrary, vitiated by mala fides, ultra vires, antithetical to the settled principles of natural justice, and wholly unsustainable in the eye of law.

(c) For issuance of an appropriate writ/writs, order(s), or direction(s) in the nature of Certiorari/Mandamus for quashing the impugned Order No. 261A/2025 (Annexure P/5) dated 06.08.2025, whereby the petitioner has been placed under suspension till further orders, together with all consequential orders, actions, and proceedings emanating therefrom.

(d) For issuance of such other writ(s), order(s), or direction(s) as this Hon'ble Court may be pleased to issue, in the interest of justice, and equity, so as to secure the ends of justice in the



peculiar facts and circumstances of the present case.”

3. The case of the petitioner is that being posted as Bench Clerk, Civil Court in the district of Siwan, by an administrative order dated 29.5.2025 issued by the Principal District and Sessions Judge, Siwan, a show cause notice was issued to the petitioner on the complaint filed by respondent no.7. The petitioner filed a reply to the said complaint on 6.6.2025. A departmental proceeding was initiated against the petitioner on 6.8.2025 and he was placed under suspension. The petitioner was also served with the article of charges (Annexure-P/3) along with the list of documents as also list of witnesses by which the charges were proposed to be substantiated.

4. It is submitted by learned counsel appearing for the petitioner that the respondent-Principal District and Sessions Judge, Siwan who is the Disciplinary Authority should be restrained from proceeding with the departmental proceeding on various ground including the grounds of apprehension of bias being raised in the mind of the petitioner. It is further submitted that the petitioner was neither supplied with the copy of the complaint and the inquiry has been initiated in a biased manner. The order of suspension has been passed mechanically. As such it is submitted that the prayer made in the instant application be



allowed and the charge memo etc. as also the initiation of the departmental proceeding be quashed.

5. At the outset, it is submitted by learned counsel for respondent nos. 3 to 6 that it has been held by Hon'ble Supreme Court in the case of **Union of India and another versus Kunisetty Satyanarayana; (2006) 12 SCC 28** that writ application should not be entertained against the mere show cause notice or chargesheet for the reason that the same does not infringe with the right of any one. For ready reference the relevant paragraphs of the aforesaid judgment are reproduced hereinbelow:-

“14. The reason why ordinarily a writ petition should not be entertained against a mere show-cause notice or charge-sheet is that at that stage the writ petition may be held to be premature. A mere charge-sheet or show-cause notice does not give rise to any cause of action, because it does not amount to an adverse order which affects the rights of any party unless the same has been issued by a person having no jurisdiction to do so. It is quite possible that after considering the reply to the show-cause notice or after holding an enquiry the authority concerned may drop the proceedings and/or hold that the charges are not established. It is well settled that a writ petition lies when some right



of any party is infringed. A mere show-cause notice or charge-sheet does not infringe the right of anyone. It is only when a final order imposing some punishment or otherwise adversely affecting a party is passed, that the said party can be said to have any grievance.

15. Writ jurisdiction is discretionary jurisdiction and hence such discretion under Article 226 should not ordinarily be exercised by quashing a show-cause notice or charge-sheet.

16. No doubt, in some very rare and exceptional cases the High Court can quash a charge-sheet or show-cause notice if it is found to be wholly without jurisdiction or for some other reason if it is wholly illegal. However, ordinarily the High Court should not interfere in such a matter.

6. In response, learned counsel relies upon a Division Bench judgment of this Court dated 17.5.2022 passed in LPA no. 205 of 2020 (District and Sessions Judge, Sitamarhi and others versus Vijay Kumar and another). The relevant paragraph nos. 6, 13 and 14 relied upon by learned counsel for the petitioner are reproduced hereinbelow:

“6. From the order of the learned Single Judge, it appears that he took note of the fact that most of the accusation against the respondent No. 1 were on the basis of the personal knowledge of the then District Judge,



who himself had initiated disciplinary proceedings and had framed charges against him. After the enquiry was conducted by the Enquiry Officer and a report was submitted, he himself recorded the punishment of dismissal of service.

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13.In the aforesaid circumstance, there was no necessity of giving a literal interpretation to Rule 18 where the disciplinary authority is the District Judge only.

14.We also find that the order passed by the learned Single Judge is sustainable on the ground that “justice should not only be done, but should be seen to be done”.

7. So far as the judgment relied upon by learned counsel for the petitioner is concerned, from the contents of paragraph no.6 quoted hereinabove itself it would transpire that the petitioner had challenged the order of punishment of his dismissal from service. The facts of the instant case are clearly distinguishable as no order of punishment has been passed as yet. In the opinion of this Court, as held in the case of **Kunisetty Satyanarayana**(supra), challenge by the petitioner to a mere issuance of a show cause notice in the writ application, is premature.



8. In view of the facts and circumstances of the case together with the judgment of the Hon’ble Supreme Court in the case of **Kunisetty Satyanarayana**(supra), challenge by the petitioner to the initiation of the disciplinary proceeding etc., in the opinion of the Court is premature. The Court finds no merit in the case.

9. This application is dismissed.

(Partha Sarthy, J)

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