

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No 15071 of 2023

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Surendra Roy Son of Late Ramashish Roy, Resident of Village- Chaktulla,
P.S.- Hajipur Sadar, District- Vaishali. And at present address E-109, Road
No.- 8, S.K. Puri South Budha Colony, Patna, Bihar- 800001.

... .. Petitioner/s

Versus

1. The State of Bihar through the Department of Law, Govt. of Bihar, Patna.
2. The Secretary, Department of Law, Government of Bihar, Patna.
3. The Principal Secretary, General Administration Department, Government of Bihar, Patna.
4. The Joint Secretary, General Administration Department, Government of Bihar, Patna.
5. The Inspector General of Police, Vigilance Investigation Bureau, Bihar, Patna.
6. The Superintendent of Police, Vigilance Investigation Bureau, Bihar, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr Bindhyachal Singh, Sr Advocate with M/s Arvind KrPratima Kri, Akshay Lal Pandit
For the S t a t e	:	Mr P K Verma, AAG III with Mr Sanjay Kr Ghosarway, AC to AAG III
For the V I g I l a n c e	:	M/s Anil Kr Singh, Arvind Kr, Advocates

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CORAM: HONOURABLE MR JUSTICE ARVIND SINGH CHANDEL

ORAL JUDGMENT

Date : 17-06-2025

This petition has been preferred by the petitioner directing the respondents to consider his case for promotion in the cadre of Indian Administrative Service for which the select list has been prepared in the years 2020, 2021 and 2022 from amongst the officers of the Bihar Administrative Service Cadre.



2 Brief facts of the case are that the petitioner is the Member of the Bihar Administrative Service and was posted as Block Development Officer at Palasy Block within Araria district. One Palasi PS Case No 225 of 2008, giving rise to Special Vigilance Case No 18 of 2009 has been registered against the petitioner for the offence punishable under Sections 420, 409, 406, 467, 468, 471/34 and 120B of the IPC, Sections 138/141 of the NI Act and also Section 13 (2) read with Sections 8/13 (1) of the PC Act. The petitioner was granted anticipatory bail vide order dated 07.05.2012 passed by this Court. Departmental proceeding was also initiated against the petitioner. Pursuant to the departmental enquiry, the petitioner was dismissed from service vide Resolution date 17.02.2012. He preferred a writ petition bearing CWJC No 14595 of 2012 before this Court which was allowed on 20.05.2016 (Annexure 3). Simultaneously, the departmental enquiry was again instituted from the faulty stage and the Enquiry Officer vide his report dated 19.05.2018 (Annexure 16) exonerated the petitioner from all the charges levelled against him.

3 Thereafter, the petitioner was reinstated by the respondents vide Resolution dated 25.08.2017 (Annexure 4). He joined on the post of District Panchayat Raj Officer, Banka.



4 In the year 2022, the progress report of the petitioner as well as other officers of Bihar Administrative Service were called for by the GAD for their promotion to the Indian Administrative Service. Being a member of the Bihar Administrative Service Cadre of 2021 batch, petitioner is eligible for his promotion in the Indian Administrative Service Cadre but his name is not being considered due to pendency of Vigilance Case No 18 of 2009 which is pending before the Special Judge (Vigilance), Bhagalpur. Hence, this petition has been preferred by the petitioner.

5 Learned counsel for the petitioner would submit that since the petitioner has already been exonerated in the departmental enquiry from all the charges by the Enquiry Officer vide his enquiry report dated 19.05.2018 (Annexure 16) and further proceeding of the criminal case, i e, Vigilance Case No 18 of 2009 has already been stayed by this Court vide order dated 16.05.2025 passed in Cr Misc No 30843 of 025. Therefore, only on the basis of pending criminal case, the claim of the petitioner for grant of his promotion cannot be denied. He further submits that similarly situated person, namely, Sudhanshu Kumar Chaubey, a member of Bihar Administrative Service preferred a writ petition bearing Cr W J C No 997 of 2016 before this Court for redressal of



grievance to be in the Indian Administrative Service Cadre challenging the sanction order passed by the respondents and the petition was disposed of by this Court vide its order dated 12.07.2022 (Annexure 5) which was challenged before the Supreme Court by filing Special Leave to Appeal (Criminal) No 7595 of 2022. The Hon'ble Supreme Court, vide its order dated 12.09.2023, granted leave and further held that the pendency of the vigilance proceeding shall not come in the way of any further promotions. Learned counsel for the petitioner submits that in the light of the above observation made by the Supreme Court, petitioner is also entitled to get promotion and merely on the ground of pendency of the criminal proceedings against him, he cannot be deprived from his promotion.

6 Learned counsel for the respondent-State submits that since the criminal case is pending against the petitioner before the Special Court, therefore as of now, the petitioner is not entitled to get any promotion.

7 I have heard learned counsel appearing for both the parties. Perused the documents annexed with the writ petition, supplementary affidavits and counter affidavits submitted by the respondents and the rejoinders.



8 Undisputedly, vide order dated 19.05.2018 (Annexure 16) in the departmental proceeding, the petitioner has been exonerated from all the charges levelled against him meaning thereby that as of now, there is no any departmental enquiry pending against him. It is also not in dispute that, vide order dated 16.05.2025 passed in Cr Misc No 30843 of 2025, a coordinate Bench of this Court has stayed the further proceedings of Vigilance Case No 18 of 2019 pending before the Special Judge, (Vigilance), Bhagalpur.

9 Petitioner has annexed the order dated 12.09.2023 passed by the Supreme Court in the case of ***Sudhanshu Kumar Chaubey -Versus- The State of Bihar & Others, SLP (Criminal) No 7595 of 2022*** (Annexure 6) wherein the Hon'ble Supreme Court categorically observed that pendency of the criminal proceedings against the petitioner therein will not come in the way of any further promotions.

10 Taking into consideration the above observation made by the Hon'ble Supreme Court in the case of similarly situated person, namely, Sudhanshu Kumar Chaubey and further taking into consideration the fact that in the departmental enquiry, the petitioner has been exonerated from all the charges levelled against him and the criminal trial pending before the Special Judge



(Vigilance) has already been stayed by this Court, the respondents are directed to consider the case of the petitioner for promotion in the light of the observation made by the Supreme Court, as referred to herein above which will be done within three months from the date of receipt of a copy of this order.

11 Any promotion given to the petitioner will be subject to the final outcome of the criminal proceeding pending against him before the Special Judge (Vigilance), Bhagalpur.

12 Accordingly, this writ petition is disposed of.

(Arvind Singh Chandel, J)

M.E.H./-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	20.06.2025
Transmission Date	NA

