

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.897 of 2022

Ajay Kumar Singh son of Late Navin Chandra Singh, Resident of Singh Sadan, Sawami Vivekanand Path, Deepnagar, P.S. Jogsar, Block Jagdishpur, District Bhagalpur, presently residing at Village-Bhimsen, P.O. Makduma, P.S. Amarpur, Distt. Banka.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Home, Government of Bihar, Patna.
2. The Principal Secretary, Department of Home, Government of Bihar, Patna.
3. The Director General of Police, Government of Bihar, Patna.
4. The Additional Director General of Police (Law and Order), Bihar.
5. The Deputy Inspector General of Police, Saran Range, Chapra, District Saran at Chapra.
6. The Superintendent of Police, Gopalganj.
7. The Superintendent of Police, Saran, Chapra.
8. The Sub-Divisional Police Officer, Sadar Gopalganj cum Inquiry Officer, District Gopalganj.
9. The Officer-Incharge, Baniyapur Police Station, District-Saran.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mrs. Nivedita Nirvikar, Sr. Advocate Mr. Shashank Shekhar, Advocate Mr. Krishna Ranjan, Advocate
For the Respondent/s	:	Mr. Md. N.H. Khan, SC-1 Ms. Babita Kumari, AC to SC-1

CORAM: HONOURABLE MR. JUSTICE PARTHA SARTHY
C.A.V. JUDGMENT

Date :22-06-2026

Heard Mrs. Nivedita Nirvikar, learned Senior counsel appearing for the petitioner and Md. N.H.Khan, learned Standing Counsel for the respondents.

2. The petitioner has filed the instant application for the following relief(s):

“(I) For issuance of an appropriate writ in the nature of



certiorari for quashing the order contained in Memo No. 3134 dated 10.12.2020 passed by the Deputy Inspector General of Police, Saran Range, Chapra by which the petitioner has been dismissed from Service with immediate effect and also for quashing the appellate order dated 19.05.2021 passed by the Additional Director General of Police (Law and order) Bihar which was communicated by the Superintendent of Police, Saran vide memo no. 3435 dated 20.03.2021 whereby the appeal preferred by the petitioner against the order dated 10.12.2020 has been rejected.

(II) For issuance of an appropriate writ in the nature of mandamus commanding and directing the respondents to reinstate the service of the petitioner with all consequential benefits with interest.

(III) For issuance of any other necessary relief/reliefs for which the petitioner would be entitled under the facts and circumstances of the case.”

3. The case of the petitioner in brief is that while the petitioner was posted as an Assistant Sub-Inspector at Mohammadpur police station in the district of Gopalganj, while on patrolling duty in the morning of 6.4.2018, the vehicle/police jeep in which the petitioner was present met with an accident in which a woman got injured and was taken to the hospital. The local people became agitated and took into custody the petitioner as also a Homeguard, while the driver of the vehicle fled away.

4. It is the case of the petitioner that the agitated local



people planted a bottle of liquor and a live chicken in the back side of the jeep to implicate the petitioner and others. A report with respect to the incident was sent by the Sub-Divisional Police Officer, Sadar, Gopalganj to the Superintendent of Police, Gopalganj finding the petitioner guilty. Blood and urine sample was sent to the Regional Forensic Science Laboratory, Muzaffarpur for analysis.

5. On the order dated 6.4.2018 passed by the Superintendent of Police, Gopalganj, a departmental proceeding was initiated against the petitioner and he was served with the memo of charge on 23.5.2018. As directed, the petitioner filed his detailed defence denying the charges levelled against him. An enquiry report dated 3.12.2020 was submitted by the enquiry officer finding the petitioner guilty of the charges levelled against him. The petitioner was served with a second show cause notice on 4.12.2020 enclosing with the same a copy of the enquiry report asking the petitioner to reply to the same. The petitioner submitted his reply on 6.12.2020.

6. By order dated 10.12.2020 (Annexure 8), issued under the signature of the DIG of Police, Saran Range, Chapra, the petitioner was dismissed from service. The appeal preferred by the petitioner against the order of dismissal was rejected by



order dated 24.4.2021 passed by the Additional Director General of Police (Law and Order), Bihar, Patna and communicated to the petitioner by the Superintendent of Police, Saran, by his District Order no.1047/2021 dated 19.5.2021. The petitioner has preferred the instant application against the order of punishment of dismissal passed against him as also the order rejecting his appeal.

7. It is submitted by learned Senior Counsel appearing for the petitioner that it is a case of no evidence against the petitioner which would be evident from the contents of the enquiry report. The only two witnesses who find mention therein have proved the signature of the Superintendent of Police, Gopalganj on the office memo no.323/2018 dated 6.4.2018 and the signature of the Sub-Divisional Police Officer, Sadar, Gopalganj on the office memo no.629/Anu. dated 6.4.2018. It is submitted that neither any witness was examined nor any oral or documentary evidence led to substantiate the charges levelled against the petitioner. In view of the facts and circumstances of the case, the enquiry report finding the petitioner to be guilty of charges is unsustainable and consequently the order of punishment as also the order rejecting the petitioner's appeal are also fit to be set aside. Both the order



of punishment as also the order rejecting the petitioner's appeal be quashed and the writ application be allowed. Learned Senior counsel appearing for the petitioner placed reliance on the judgment in the case of ***Roop Singh Negi vs. Punjab National Bank, (2009) 2 SCC 570.***

8. The application is opposed by learned counsel appearing for the respondents. It is submitted that while returning from patrolling duty, the jeep in which the petitioner was present along with the other police personnel hit a lady as a result of which she died. In the enquiry conducted, the petitioner was found guilty. In course of investigation, the urine and blood sample of the police personnel were sent to the Forensic Science Laboratory for chemical analysis and alcohol was found in all the samples, confirming the fact that the petitioner and others while on patrolling duty were in a drunken condition.

9. Learned counsel for the respondents further submits that a decision was taken to conduct a departmental proceeding in which a memo of charge was served on the petitioner. After giving opportunity at each stage of the proceeding to put forward his case/defence, an enquiry report came to be submitted finding the charge levelled against the petitioner to have been proved. After giving a copy of the enquiry report to



the petitioner and an opportunity to him to reply to the second show cause notice and considering the same, the order of punishment came to be passed. It is submitted that the scope of judicial review of an order of punishment passed in a departmental proceeding is very limited under Article 226 of the Constitution. The petitioner not having been able to point out any illegality or irregularity in carrying out of the proceedings, the petitioner has not made out any case for interference in the orders impugned. As such, the writ application be dismissed.

10. Heard learned counsel for the parties and perused the material on record.

11. The facts in brief are that at the relevant time when the petitioner was an Assistant Sub-Inspector of Police and posted at Mohammadpur police station in the district of Gopalganj, he proceeded on patrolling duty along with the other police personnel in a police jeep. In the morning of 6.4.2018, the jeep met with an accident as a result of which a woman got injured, was taken to the hospital and subsequently died. There was agitation by the local people and as per the case of the respondents, a bottle of liquor and a live chicken was recovered from the back side of the jeep which as per the petitioner's case, was planted by the local people. The petitioner was proceeded



against in a departmental proceeding with the service of memo of charge on him on 23.5.2018 to which he filed his detailed defence on 5.11.2019. The departmental enquiry proceeded and an enquiry report dated 03.12.2020 came to be submitted by the enquiry officer, finding the petitioner guilty of the charges levelled against him.

12. On perusal of the enquiry report, a copy of which has been brought on record as Annexure 5 to the writ application, would show that two witnesses were examined on behalf of the respondents, namely ASI of Police Randhir Kumar Singh and ASI of Police Harendra Kumar. Randhir Kumar Singh states that he has been posted for about two years in the office of the Superintendent of Police, Gopalganj and the memo dated 6.4.2018 which has been marked as Exhibit I has been issued from his office. Harendra Kumar states that he has been posted in the office of the SDPO Sadar for about two years and the office memo no.629 dated 6.4.2018 which has been marked as Exhibit II has been issued from his office.

13. The enquiry report neither contains the statements of the witnesses with respect to the contents of the two memo nos.323/2018 dated 6.4.2018 and memo no.629/Anu. dated 6.4.2018 nor as to what the respondents want to prove from the



same. Besides proving the initials and the fact that the two memos have been issued from the offices of the Superintendent of Police and the Sub Divisional Police Officer respectively, no other witness has been examined nor any statement made or document proved in support of the charges against the petitioner.

14. The enquiry officer in Clause 4 of the report which deals with his opinion states about the petitioner being present when the accident took place in course of patrolling leading to death of a 25 year old woman, the disturbances caused by the agitated local people, the misbehavior of the local people with the police personnel and registration of Mohammadpur police station case no.43 of 2018 dated 6.4.2018 under section 279 and 304A of the Indian Penal Code. It also mentions about recovery of a half filled liquor bottle in the police jeep, sending of the blood sample to the Forensic Science Laboratory and the report of the Forensic Science Laboratory Muzaffarpur having been received in course of investigation in the criminal case. It is on this basis that the enquiry officer comes to the conclusion about the petitioner being guilty of the charges levelled against him in the departmental proceeding.

15. It may be observed here that departmental proceeding



is quasi-judicial proceeding in which the enquiry officer performs a quasi-judicial function. The respondent/Presenting Officer is required to lead evidence, both oral and documentary in course of the proceeding. The documentary evidence has to be proved by the witnesses examined in course of inquiry and it is on the basis of the evidence brought on record in course of the departmental proceeding that the charges are required to be proved.

16. On perusal of the contents of the enquiry report, this Court finds that no such evidence has been brought on record except for two memos having been issued from the office of the Superintendent of Police, Gopalganj and the Sub-Divisional Police Officer, Sadar having been marked as Exhibits I and II and only the signatures/initials of the authorities thereon having been proved by the two witnesses.

17. At this stage, it would be relevant to quote the judgment in the case of ***Roop Singh Negi vs Punjab National Bank and others; (2009) 2 SCC 570*** where the Hon'ble Supreme Court held as follows:

“14. Indisputably, a departmental proceeding is a quasi-judicial proceeding. The enquiry officer performs a quasi-judicial function. The charges levelled against the delinquent officer must be found to have been proved. The



enquiry officer has a duty to arrive at a finding upon taking into consideration the materials brought on record by the parties. The purported evidence collected during investigation by the investigating officer against all the accused by itself could not be treated to be evidence in the disciplinary proceeding. No witness was examined to prove the said documents. The management witnesses merely tendered the documents and did not prove the contents thereof. Reliance, inter alia, was placed by the enquiry officer on the FIR which could not have been treated as evidence.

15. We have noticed hereinbefore that the only basic evidence whereupon reliance has been placed by the enquiry officer was the purported confession made by the appellant before the police. According to the appellant, he was forced to sign on the said confession, as he was tortured in the police station. The appellant being an employee of the Bank, the said confession should have been proved. Some evidence should have been brought on record to show that he had indulged in stealing the bank draft book. Admittedly, there was no direct evidence. Even there was no indirect evidence. The tenor of the report demonstrates that the enquiry officer had made up his mind to find him guilty as otherwise he would not have proceeded on the basis that the offence was committed in such a manner that no evidence was left.”

18. A Division Bench of this Court in the case of



Devendra Prasad vs. The State of Bihar & Ors. (judgment dated 19.10.2023 passed in LPA no.1302 of 2017), following **Roop Singh Negi** (supra) observed as follows :-

“7. As has been held in Roop Singh Negi v. Punjab National Bank and others; (2009) 2 SCC 570, the documents produced in a departmental inquiry has to be proved by examining witnesses. Even an F.I.R. was held to be not evidence by itself without actual proof of facts stated therein. The Hon'ble Supreme Court had also held that even an admission or confession to the police itself is not sufficient to find the delinquent employee guilty in a departmental proceeding if no evidence is brought on record to prove the offence or misconduct alleged. Departmental inquiry was held to be a quasi-judicial proceeding and the Inquiry Officer functions in the status of a quasi-judicial authority. Not only should evidence be led in a departmental inquiry, the conclusions arrived at should be based on evidence which brings forth a probability that the delinquent has committed the misconduct alleged and charged against him. No Inquiry Report based on conjectures and surmises can be sustained and even in a departmental inquiry, the standard of proof is not a mere suspicion. However high the degree of suspicion is, it cannot be a substitute for legal proof.”

19. In view of the facts and circumstances of the case, the material available on record and discussed herein above



especially the contents of the enquiry report, this is a case of no evidence against the petitioner.

20. In this view of the matter, neither the order of punishment of dismissal nor the order rejecting the appeal filed by the petitioner can be sustained. Consequently, the Saran Range Order no.186/2020 contained in memo no.3134 dated 10.12.2020 issued under the signature of the DIG, Saran Range, Chapra as also the order of the Additional Director General of Police (Law and Order, Bihar, Patna) communicated to the petitioner contained in Saran District Order no.1047/2021, memo no.3435 dated 20.5.2021 under the signature of the Superintendent of Police, Saran are both hereby set aside.

21. In view of the nature of the allegations and the material available on record, the respondents will be at liberty to proceed against the petitioner from the stage of commencement of the enquiry.

22. The writ application is allowed with the above observations and directions.

(Partha Sarthy, J)

Saurabh/-

AFR/NAFR	NAFR
CAV DATE	14.05.2026
Uploading Date	22.06.2026
Transmission Date	N/A

