

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5300 of 2022

Md. Naseem Ansari son of Late Md. Wajid Ansari, resident of Village -
Bhabdepur Ward no. 23, P.S. - Sitamarhi Town, District - Sitamarhi.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Agriculture Department
Govt. of Bihar, Patna.
2. The Principal Secretary, Agriculture Department, Govt. of Bihar, Patna.
3. The Director, Agriculture Department, Govt. of Bihar, Patna.
4. The Joint Director (Shashya), Agriculture Department, Govt. of Bihar, Patna
-cum-conducting Officer.
5. The District Agriculture Officer, Patna.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Sunil Kumar, Advocate Md. Anisur Rahman, Advocate Mr. Sanjeeb Kumar Sanju, Advocate Mr. Bhaskar Sandilya, Advocate
For the Respondent/s	:	Mr. Dhurjati Kumar Prasad (GP-14)

CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN
ORAL JUDGMENT
Date : 22-01-2026

Learned Counsel for the petitioner submits that he has filed three interlocutory applications. He submits that I.A. No.1 of 2004 has become infructuous as he is not pressing the same. He further submits that I.A. No.2 of 2024 was disposed off vide order dated 27.08.2024 but in the order sheet it has not been explicitly expressed. He further submits that I.A. No.3 of 2024 has been disposed off on 01.07.2025.

2. Learned Counsel for the State has agreed on



the contention of the learned Counsel for the petitioner.

3. As such, both Counsel jointly submit that in the light of the situation described above, this case is fully ready for hearing on the point of admission.

4. Heard learned Counsel for the petitioner and learned Counsel for the State.

5. The present writ petition has been filed for seeking direction to quash the departmental proceeding against the petitioner by virtue of notice issued under Memo No.862 dated 16.10.2020 (Annexure-14). The further prayer to quash letter No.60/GO dated 22.06.2020 (Annexure-13) by which the respondent No.6, Joint Director (Shashya)-cum-Conducting Officer has forwarded his enquiry report to respondent No.3 in the proceeding against the petitioner. Further prayer to quash the order issued by the respondent No.3, the Director Agriculture, Bihar, Patna, under Memo No.247 dated 27.05.2016 (Annexure-4) by which he has granted sanction for prosecution against the petitioner in Vigilance Case No.44 of 2016. The further prayer, which has been added by virtue of I.A. No.2 of 2024, for quashing the order of punishment (Annexure-1 of I.A. No.2 of 2024) issued under Memo No.582 dated 19.07.2024 by respondent No.3, the Director Agriculture Bihar, Patna, by



which petitioner was dismissed. Further prayer which has been allowed vide I.A. No.3 of 2024 to quash letter No.2(go)C-02-176/2015 (part) 1001 dated 06.12.2024 (Annexure-4 of I.A. No.3 of 2024) by which the Memorial dated 06.09.2024 against the order of dismissal dated 19.07.2024 has been rejected.

6. Learned Counsel for the petitioner submits that the entire proceeding is absolutely defective and has been passed in gross violation of the established law of the land. He submits that the charge memo which is Annexure-4, has not been issued in compliance of Rule 17(3) of the Bihar Government Servants (Classification, Control & Appeal) Rules, 2005 (hereinafter referred to as the 'CCA Rules, 2005'). He further submits that in the enquiry report neither the complainant has been examined or cross-examined nor any other material with regard to allegation against the petitioner has been produced before the enquiry Officer. He further submits that the Director, Agriculture Department, Government of Bihar, Patna has directed to take action against the petitioner who is not the competent authority as the petitioner belongs to Group-B post and the Director also. Therefore, he submits that the entire proceedings, which are conducted by the Director being the Disciplinary Authority is bad-in-law. He relied on the



case of **Roop Singh Negi Vs. Punjab National Bank and Others** reported in **(2009) 2 SCC 570** and in the case of **Rajesh Kumar Sharma Vs. the State of Bihar** reported in **2023(1) PLJR 511**. He submits that in the present case there are gross violation of Rule 17(3) of the CCA Rules, 2005 as neither any material evidence nor any cross-examination took place without which no charge can be proved against the petitioner. Violation of Rule 18(3) has also been made. He further submits that the Reviewing Authority has also not considered the points taken by the delinquent and, hence, he submits that the entire proceeding should be vitiated as it is bad-in-law. He submits that since proceeding is bad-in-law, therefore, the petitioner be reinstated in service with a direction for payment of all his arrears within a fix period of time.

7. Learned Counsel for the State, on the other hand, submits that the charge memo has been issued completely in accordance with law. He also submits that the order which was alleged to be passed by the Director has been duly approved by the competent Minister. There is no jurisdictional error in the order passed by the Disciplinary Authority as well as the order passed by the Reviewing Authority. He fairly submits that it is true that evidence of Complainant is not on the record. He also



submits that in the light of **Roop Singh Negi** (supra) when evidence has not been taken and list of witnesses has also not been provided. But in support of his argument, he relied in the case of **State of Uttar Pradesh Vs. Rajit Singh** reported in **(2022) 2 PLJR 196** whose paragraphs 8 and 9 are relevant and submits that it is well settled legal proposition that once the Court sets aside an order of punishment, on the ground that enquiry was not properly conducted, the Court cannot reinstate the employee. It must remit the case concerned to the disciplinary authority for it to conduct the enquiry from the point that it is stood vitiated, and conclude the same.

8. Upon hearing the parties, there are two documents which are very much relevant to decide this case. The first is Annexure-9, i.e., notification contained in Memo No.105 dated 25.01.2017, issued from the Cabinet Secretariat, Government of Bihar, whose paragraph-8 is very much clear that for Group-B categories, the Competent Authority who can initiate the disciplinary proceeding shall be the Principal Secretary or the Departmental Minister through Secretary of the Department. Counsel submits that all the letters, charge memo decision to initiate departmental proceeding, decision to initiate the enquiry proceeding everything has been done not either by



the Principal Secretary or any Secretary Level Officers rather it was done at the level of Director of the Department, who is not the Secretary in the eye of law and, therefore, the entire proceeding which has been defective one and not initiated from the competent authority. The another relevant point which is also important that in the Charge Memo which is technically defective due to non-issuance by the competent authority as well as name of the list of witnesses are no where. It is important to note that for the amendment in the charge, corrigendum in the charge has been issued in the year 2018, enquiry has been conducted in 2020, but the change of law, namely, Bihar Framing of Article of Charge Against Government Servant Regulation, 2017 has not been taken care of. No evidence of the person, who made allegations, has been taken and there is a gross violation of **Roop Singh Negi** (supra). It is due to this reason, this Court is of the firm view that the entire decision to proceed the departmental proceeding is absolutely bad-in-law and not sustainable. The judgment, which has been relied by Counsel for the respondent, i.e., **State of Uttar Pradesh Vs. Rajit Singh** whose paragraphs 8 and 9 are relevant are as follows:-

“8. It appears from the order passed by the Tribunal that the Tribunal also



*observed that the enquiry proceedings were against the principles of natural justice in as much as the documents mentioned in the charge-sheet were not at all supplied to the delinquent officer. As per the settled proposition of law, in a case where it is found that the enquiry is not conducted properly and/or the same is in violation of the principles of natural justice, in that case, the Court cannot reinstate the employee as such and the matter is to be remanded to the Enquiry Officer/Disciplinary Authority to proceed further with the enquiry from the stage of violation of principles of natural justice is noticed and the enquiry has to be proceeded further after furnishing the necessary documents mentioned in the charge-sheet, which are alleged to have not been given to the delinquent officer in the instant case. In the case of **Chairman, Life Insurance Corporation of India and Ors. vs. A. Masilamani, (2013) 6 SCC 530**, which was also pressed into service on behalf of the appellants before the High Court, it is observed in paragraph 16 as under:-*

“16. It is a settled legal proposition, that once the court sets aside an order of punishment, on the ground that the enquiry was not properly conducted, the



court cannot reinstate the employee. It must remit the case concerned to the disciplinary authority for it to conduct the enquiry from the point that it stood vitiated, and conclude the same. (Vide ECIL v. B. Karunakar [(1993)4 SCC 727), Hiran Mayee Bhattacharyya v. S.M. School for Girls ((2002)10 SCC 293), U.P. State Spg. Co. Ltd. v. R.S. Pandey [(2005)8 SCC 264] and Union of India v. Y.S. Sadhu [(2008)12 SCC 30])."

9. From the impugned judgment and order passed by the High Court, it appears that when the aforesaid submission and the aforesaid decision was pressed into service, the High Court has not considered the same on the ground that the other officers involved in respect of the same incident are exonerated and/or no action is taken against them. Applying the law laid down in the case of **A. Masilamani** (supra) to the facts of the case on hand, we are of the opinion that the Tribunal as well as the High Court ought to have remanded the matter to the Disciplinary Authority to conduct the enquiry from the stage it stood vitiated. Therefore, the order passed by the High Court in not allowing further proceedings from the stage it stood vitiated, le., after the issuance of the charge-sheet, is



unsustainable.”

9. In the light of the said decision and the observations made with regard to incompetency of the disciplinary proceeding, this Court hereby set aside the notice issued under Memo No.862 dated 16.10.2020 (Annexure-14), letter No.60/GO dated 22.06.2020 (Annexure-13), the order issued under Memo No.247 dated 27.05.2016 (Annexure-4), the order of punishment (Annexure-1 of I.A. No.2 of 2024) issued under Memo No.582 dated 19.07.2024 and letter No.2(go)C-02-176/2015 (part) 1001 dated 06.12.2024 (Annexure-4 of I.A. No.3 of 2024), but this Court is not restraining the respondent authority to proceed afresh for the wrong done by him on the ground of technical reasons. It is well within the power of the employer that if employee commits wrong then the authority is competent to proceed by way of fresh proceeding, in accordance with law, but every such proceeding must be completed within the stipulated period of nine months only.

(Dr. Anshuman, J)

Mkr./-

AFR/NAFR	NAFR
CAV DATE	NA
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