

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5471 of 2025

=====

Sujit Kumar Son of Ravindra Prasad, resident of Mohalla Mathiya Zirat,
Police Station-Motihari (Town), District-East Champaran.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Education Department,
Government of Bihar, Patna.
2. The Director, Secondary Education, Government of Bihar, Patna.
3. The Regional Deputy Director, Trihut Division, Muzaffarpur.
4. The District Education Officer, District-Sitamarhi.
5. The District Education Officer, District-Sheohar.

... .. Respondent/s

=====

Appearance :

For the Petitioner/s	:	Mr. Rajendra Narayan, Sr. Advocate Mr. Virendra Kuar, Advocate
For the State	:	Mr. K.K. Singh, AC to GP 22

=====

CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI
CAV JUDGMENT

Date : 17-01-2026

The petitioner is an employee of the Education Department posted in the Office of the District Education Officer at Motihari. He has filed the instant writ petition invoking the jurisdiction of Article 226 of the Constitution, praying for issuance of an appropriate writ in the nature of *certiorari* for quashing the departmental proceeding initiated against him on the basis of the memorandum of charge, as the departmental authority has hopelessly failed to prove the proceeding against the petitioner.



2. The factual aspect that gives rise to the instant writ petition is as follows:-

On 01.02.2021, one Gulabudin made a complaint before the Additional Superintendent of Police-cum-SHO, Vigilance Investigation Bureau, Patna, Bihar, alleging, inter alia, that he was posted as a Peon at Madarsa Islamia Dariapur in the District of East Champaran. He deposited all documents for issuance of salary slip in the office of the District Education Officer. The District Education Officer, Motihari, asked him to talk to the petitioner for issuance of the salary slip. The petitioner demanded a bribe of a sum of Rs. 15,000/- for issuance of the salary slip. The concerned employee made a complaint before the Vigilance Investigation Bureau making the said allegation. The petitioner was arrested by a trap team constituted by the Vigilance Investigation Bureau on 11.02.2021, red-handed while receiving a bribe of Rs. 15,000/-. The petitioner was taken into custody and Vigilance P.S. Case No. 06 of 2021 was registered against him under Section 7(A) of the Prevention of Corruption Act. The said criminal case is still pending before the competent criminal court. As the petitioner was arrested in connection with a criminal case, he was put under suspension with effect from 12.02.2021. Subsequently, he was released on bail and his suspension was



revoked. The petitioner was allowed to join in the office of the District Education Officer, Motihari, on 11th October 2021. Subsequently, he was again put under suspension vide Memo No. 1602 dated 30th November 2021. On 07th February 2022, departmental proceeding was initiated against the petitioner by a memorandum of charge, and the District Education Officer, Sitamarhi, was appointed as Inquiry Officer, and the District Programme Officer, East Champaran, Motihari, was appointed as Presenting Officer. The memorandum of charge was supplied to the delinquent employee by the Inquiry Officer, and he was directed to submit a statement of defence against the memorandum of charge. It is contended by Mr. Rajendra Narayan, learned Senior Counsel for the petitioner, that the memorandum of charge was not framed as per Rule 17(3) of the Bihar Government Servants (Classification, Control & Appeal) Rules, 2005. In the memorandum of charge, no list of witnesses was appended. In the list of documents, only reference to three internal letters was made.

3. During the disciplinary proceeding, the respondent authority did not produce any evidence or examine any witness in support of the imputation of charge. The Inquiry Officer finally submitted his report to the effect that the department failed to prove the charge of misconduct against the petitioner, as the



department failed to examine any witness. As a result, the Inquiry Officer submitted his report advising the department to initiate departmental proceeding against the petitioner awaiting the final outcome of the criminal case.

4. The disciplinary authority, however, did not accept such report of the Inquiry Officer and he sent back the said inquiry report to the District Education Officer for reconsideration of the charge levelled against the petitioner. The District Education Officer submitted the same report again to the disciplinary authority.

5. The disciplinary authority then changed the Inquiry Officer, and the District Education Officer, Seohar, was freshly appointed as the Inquiry Officer, and the District Project Officer, East Champaran, was appointed as the Presenting Officer, and a fresh inquiry was directed to be initiated against the petitioner on the same charge. The newly appointed Inquiry Officer submitted the same report as his predecessor on the ground that the department failed to examine any witness in support of the charge. The departmental authority refused to accept the third inquiry report and set up an inquiry against the petitioner for the fourth time.



6. It is submitted by the learned Senior Counsel for the petitioner that the departmental authority, who is respondent no. 2 in the instant writ petition, viz., the Regional Deputy Director of Education, Tirhut Division, Motihari, was over-biased against the petitioner and is bent upon punishing the petitioner in the departmental proceeding even without examination of any witness. The learned Senior Counsel for the petitioner also refers to paragraph no. 16 of the counter-affidavit filed by respondent no. 3, wherein he admitted that the criminal case against the petitioner has not yet been concluded and is not likely to be concluded soon.

7. The learned Advocate for the State respondents has practically admitted the factual position involved in the instant case.

8. I have heard the learned Advocates for the petitioner and the respondents at length.

9. Sub-rule (3) of Rule 17 of the Bihar Government Servants (Classification, Control and Appeal) Rules, 2005, makes out a detailed provision with regard to the framing of articles of charge, which shall be in four parts, as hereunder:—

i) In first part, the personal information of the concerned Government servant shall be recorded.



ii) Second part shall contain the substance of the imputation of misconduct or misbehavior as a definite and distinct articles of charge.

iii) third part shall contain a statement of the imputation on misconduct or misbehavior in support of each article of charge, which shall contain a statement of all relevant facts including any admission or confession made by the Government Servant.

iv) fourth part shall contain list of such documents by which, and a list of such witnesses by whom, the articles of charges are proposed to be sustained. When the memorandum of charge in a departmental proceeding is without list of witnesses, charge memo itself a statement of the imputations of misconduct or misbehaviour in support of each article of charge, which shall contain- is violative of principles of natural justice because the delinquent employee has every right and authority to know the witnesses by whom the departmental authority proposes to prove the charge.

10. In the instant case, the materials on record clearly suggest that the Inquiry Officers submitted the same and identical reports against the petitioner on three occasions, stating that the departmental authority failed to produce any witness and that the charge of misconduct, in the form of taking a bribe by the



petitioner, has not been proved. It is not in dispute that the criminal case on the same charge is pending. From the admission made by the respondents in the counter-affidavit, it is ascertained that there is no assurance as to when the criminal case shall be concluded. In view of such circumstances, a departmental proceeding cannot be kept pending for years together, even after submission of reports by the Inquiry Officers in favour of the petitioner, on the ground that the report of the Inquiry Officer is not to the liking of the departmental authority. It is needless to mention that a memorandum of charge without any list of witnesses suffers from vagueness, and the departmental proceeding on the basis of such vague and ambiguous charge, where no list of witnesses was cited, is liable to be quashed. Accordingly, the departmental proceeding initiated against the petitioner is held to be *dehors* procedure, and the same is liable to be quashed.

11. For the reasons stated above, the instant writ petition is allowed on contest. The departmental proceeding initiated against the petitioner, i.e., Sujit Kumar, an employee of the Education Department is directed to be quashed. The respondent authority, specially respondent no. 2, however, is at liberty to take necessary departmental action against the petitioner, if he is



convicted and sentenced for the offence under Section 7(A) of the Prevention of Corruption Act, by the competent criminal court.

12. The instant writ petition is thus, allowed on contest.

(Bibek Chaudhuri, J)

Suraj Dubey/-

AFR/NAFR	NAFR
CAV DATE	12.01.2026
Uploading Date	19.01.2026
Transmission Date	19.01.2026

