

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.12279 of 2021**

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Ram Pravesh Singh S/o Late Rajendra Prasad Singh, Resident of Village and  
P.O.-Bihari Bigha, P.S.-Pandarak, District-Patna.

... .. Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Department of Home,  
Govt. of Bihar, Patna.
2. The Principal Secretary, Department of Home, Govt. of Bihar, Patna.
3. The Director General of Police, Bihar, Patna.
4. The Inspector General of Police, Magadh Range, District-Gaya.
5. The Superintendent of Police, District-Nawada.
6. The Deputy Superintendent of Police (Reserved)-cum-Conducting Officer,  
Police Kendra, District-Nawada.

... .. Respondents

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**Appearance :**

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| For the Petitioner/s | : | Mr. Sanjay Kumar Giri, Advocate<br>Mr. Pratik Ray, Advocate<br>Mr. Mritunjay Harsh, Advocate<br>Mr. Keshav Anand, Advocate |
| For the Respondent/s | : | Mr. Nasrul Khan, SC-1<br>Ms. Babita Kumari, AC to SC-1                                                                     |

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**CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR**  
**CAV JUDGMENT**

**Date : 17-07-2026**

Heard Mr. Sanjay Kumar Giri, learned Advocate for  
the petitioner, and Mr. Nasrul Khan, learned Standing Counsel  
No. 1, assisted by Ms. Babita Kumari, learned Advocate  
appearing for the State.

2. The petitioner has invoked the extraordinary writ  
jurisdiction of this Court seeking quashing of Memo No. 2358  
dated 29.05.2020 issued by respondent no. 5, whereby he was  
inflicted with the punishment of dismissal from service from the



post of PTC (Writer/Constable) while posted at Pakribarawan Police Station, District-Nawada. Aggrieved by the said order of dismissal, the petitioner preferred a statutory appeal, which also came to be rejected vide Memo No. 391 dated 29.04.2021. Thereafter, the memorial preferred by the petitioner against the order of dismissal as well as the appellate order before respondent no. 3 was also rejected vide Memo No. 413 dated 21.07.2023. The said order has also been challenged by filing Interlocutory Application No. 01 of 2024.

3. The brief facts, as culled out from the records for proper adjudication of the present writ petition, are that while the petitioner was working as PTC (Writer/Constable) at Pakribarawan Police Station in the district of Nawada, he was made an accused in connection with Pakribarawan P.S. Case No. 377 of 2019, instituted on 16.11.2019 for the offence punishable under Section 37(c) of the Bihar Prohibition and Excise Act, 2016. The FIR alleges that while the informant was on patrolling duty, he noticed two persons standing at the gate of the police station engaged in a heated altercation. On noticing the informant and other police personnel, both persons attempted to flee but were apprehended. The accused persons were identified as Ratnakar Pandit and the present petitioner. On suspicion that both were under the influence of liquor, they were



subjected to a breath analyzer test, which allegedly confirmed that they had consumed alcohol. Subsequently, the petitioner was medically examined by the Medical Officer at the Primary Health Centre, Pakribarawan, who recorded that the smell of toddy was emanating from the petitioner's mouth.

4. Consequent upon the aforesaid incident, the petitioner was placed under suspension and a departmental proceeding was initiated against him. A memorandum of charges (Prapatra 'K') dated 05.01.2020 was served alleging, *inter alia*, that while discharging official duties, the petitioner had consumed liquor, which is prohibited in the State of Bihar. It was further alleged that he had neglected his official duties while under the influence of liquor, disobeyed lawful orders, and exhibited conduct unbecoming of a member of the disciplined force.

5. Upon receipt of the charge memo, the petitioner submitted a detailed written explanation specifically asserting that the Medical Officer had merely found the smell of toddy emanating from his mouth and despite such medical opinion, he had been falsely implicated for consumption of liquor. It was further stated that he had consumed toddy on the advice of a medical practitioner for treatment of his illness. The petitioner also alleged *mala fide* on the part of the Officer-in-Charge of



Pakribarawan Police Station, contending that the latter was harbouring personal animosity against him. The petitioner further pointed out that he had been serving as a Constable since 1986, had earned several commendations for his meritorious service, and had maintained an unblemished service record throughout his career.

6. During the departmental enquiry, the department examined five witnesses in support of the charges. Upon conclusion of the enquiry, the Inquiry Officer submitted his report vide Memo No. 1608 dated 26.03.2020 (Annexure-7), holding all the charges proved against the petitioner. Thereafter, the petitioner was served with a second show-cause notice vide Memo No. 1652 dated 31.03.2020 calling upon him to submit his representation against the proposed punishment. The petitioner submitted his detailed reply on 14.05.2020 reiterating the defence taken in his written statement. He further contended that neither his blood nor urine samples had been examined and he had been held guilty solely on the basis of a breath analyzer test, contrary to the settled legal position laid down by this Court. The disciplinary authority, however, being dissatisfied with the explanation furnished by the petitioner, passed the impugned order of dismissal vide Memo No. 2358 dated 29.05.2020 (Annexure-10).



7. Aggrieved thereby, the petitioner preferred an appeal before the Inspector General of Police, Magadh Range, Gaya, which came to be rejected vide Memo No. 1818 dated 28.05.2021 (Annexure-12). Thereafter, the petitioner preferred a memorial against the orders of dismissal and rejection of appeal. During the pendency of the present writ petition, the said memorial was also rejected vide Memo No. 413 dated 21.07.2023. Consequently, the petitioner challenged the said order by filing Interlocutory Application No. 01 of 2024.

8. Learned Advocate appearing for the petitioner, assailing the impugned orders, primarily submitted that the charges contained in (Prapatra 'K') are vague and contrary to the medical evidence available on record and, therefore, the entire disciplinary proceeding stands vitiated in law. It is contended that the Medical Officer, who examined the petitioner, categorically recorded in his report (Annexure-2/A) that the smell of toddy was emanating from the petitioner's mouth. Despite such clear medical opinion, the disciplinary authority proceeded on the assumption that the petitioner had consumed alcohol solely on the basis of an alleged breath analyzer test. It is argued that neither the breath analyzer report was brought on record during the enquiry nor was the person who conducted the test examined as a witness. Even the



Medical Officer, who was examined during the departmental enquiry, consistently deposed that the petitioner had consumed toddy and not liquor. It is further contended that despite the petitioner's request, the medical practitioner who had allegedly advised him to consume toddy for treatment of his ailment was not examined.

9. Placing reliance upon the Bihar Nira (Unfermented Juice of Palm) Rules, 2017, learned Advocate submitted that the consumption of toddy is neither prohibited nor punishable under law and only fermented palm juice, which falls within the ambit of Section 2(16) of the Bihar Prohibition and Excise Act, 2016, is prohibited. Learned Advocate further informed this Court that during the pendency of the present writ petition, the petitioner attained the age of superannuation on 31.05.2022. However, on account of the impugned order of dismissal, he has been deprived of all consequential retiral benefits despite having rendered long and otherwise blemish-free service.

10. *Per contra*, learned Advocate appearing for the State, while controverting the submissions advanced on behalf of the petitioner, contended that the petitioner was apprehended by the informant while creating nuisance in an intoxicated condition. According to the breath analyzer test, the petitioner was found to be under the influence of liquor, whereafter the



aforesaid FIR was instituted. Consequent thereto, the petitioner was placed under suspension and a departmental proceeding was initiated by serving the memorandum of charges. Shri Madan Kumar Rai, Deputy Superintendent of Police, was appointed as the Inquiry Officer, while Shri Rameshwar Thakur, Inspector of Police, DCB Section, was appointed as the Presenting Officer, who was subsequently replaced by Shri Sanjay Kumar, Sub-Inspector, Transport Section, Police Line. During the course of the enquiry, five departmental witnesses were examined, and the petitioner was afforded full opportunity to cross-examine them. Copies of the statements of all witnesses were also supplied to the petitioner. Upon conclusion of the enquiry, the Inquiry Officer submitted his report holding the charges proved. The Superintendent of Police, Nawada, after considering the enquiry report, afforded the petitioner an opportunity to submit his final representation, but finding the same unsatisfactory, imposed the punishment of dismissal from service. The said order was thereafter affirmed by the Inspector General of Police, Magadh Range, Gaya.

11. Learned Advocate for the State further submitted that toddy also falls within the definition of country/traditional liquor under Section 2(16) of the Bihar Prohibition and Excise Act, 2016 and is, therefore, prohibited under the Act.



Consequently, the plea of the petitioner that he had consumed toddy on medical advice does not improve his case. It is further contended that the breath analyzer report clearly established that the petitioner was under the influence of liquor, which is completely prohibited in the State of Bihar. Accordingly, the punishment of dismissal imposed upon the petitioner is proportionate to the gravity of the misconduct proved against him.

12. Before examining the validity of the impugned orders, this Court considers it appropriate to delineate the scope of judicial review in disciplinary matters.

13. The Hon'ble Supreme Court, in ***Kuldeep Singh v. Commissioner of Police & Others, (1999) 2 SCC 10***, held that the High Court, while exercising the power of judicial review, cannot sit in appeal over the findings recorded in a departmental inquiry or assume the role of an appellate authority. However, this does not imply that the Court is powerless to interfere in all circumstances. The power of judicial review vested in the High Courts and the Hon'ble Supreme Court under the Constitution extends to departmental proceedings as well. Interference is warranted where there is no evidence to support the findings, where the findings are such as no reasonable or prudent person could have arrived at, where the findings are perverse, or where



they have been recorded at the dictates of a superior authority.

14. Referring to various earlier decisions, the Hon'ble Supreme Court further reiterated that where findings of misconduct are based on no evidence, or where the conclusions are such that no reasonable person could have reached them, such findings are liable to be set aside as perverse. It has been also held that where a quasi-judicial authority records findings based on no legal evidence, or where the findings are merely its *ipse dixit* or are founded on conjectures and surmises, the inquiry suffers from the additional infirmity of non-application of mind and consequently stands vitiated.

15. A two-Judge Bench of the Hon'ble Supreme Court, in ***Union of India & Others v. P. Gunasekaran, (2015) 2 SCC 610***, exhaustively explained the scope of interference in disciplinary proceedings while exercising jurisdiction under Articles 226 and 227 of the Constitution. The Court held that judicial review is confined to examining whether:

*“(a) the inquiry is held by a competent authority;*

*(b) the inquiry is held according to the procedure prescribed in that behalf;*

*(c) There is violation of the principles of natural justice in conducting the proceedings;*



*(d) the authorities have disabled themselves from reaching a fair conclusion by some considerations extraneous to the evidence and merits of the case;*

*(e) the authorities have allowed themselves to be influenced by irrelevant or extraneous considerations;*

*(f) the conclusion, on the very face of it, is wholly arbitrary and capricious that no reasonable person could have arrived at such a conclusion;*

*(g) the disciplinary authority erroneously admitted inadmissible evidence which influenced the finding; and*

*(h) the finding of fact is based on no evidence.”*

16. Having noticed the scope of judicial review, this Court now proceeds to examine the facts of the present case.

17. The memorandum of charge is founded upon Pakribarawan P.S. Case No. 377 of 2020, registered under Section 37(c) of the Bihar Prohibition and Excise Act, 2016. On a comparative examination of the First Information Report and the medical report, it is evident that the petitioner was examined by the Medical Officer, PHC, Pakribarawan, Nawada. The Medical Officer recorded that, upon examination, he found the smell of toddy emanating from the petitioner's mouth. The said



medical report has also been relied upon as one of the documentary exhibits in support of the memorandum of charge.

18. The charge against the petitioner, however, alleges that he had consumed alcohol and was creating a nuisance under its influence. There can be no dispute that in a departmental proceeding, the charges are required to be established on the touchstone of the preponderance of probabilities and not beyond reasonable doubt, as is required in a criminal trial. Nevertheless, the sufficiency of evidence necessarily postulates the existence of some legally admissible evidence establishing a nexus between the charged officer and the alleged misconduct.

19. *In Sheikh Bahadur v. Union of India & Others, (2002) 7 SCC 142*, the Hon'ble Supreme Court held that however voluminous the evidence may be, if it is neither relevant nor establishes any nexus between the alleged misconduct and the delinquent employee, it would amount to no evidence in the eyes of law.

20. On a careful examination of the memorandum of charge and the inquiry report, this Court finds that although the medical report was exhibited and Dr. Rama Kant Nishad, Medical Officer, PHC, Pakribarawan was examined during the inquiry, he categorically deposed that the petitioner had



consumed toddy and, therefore, the smell of toddy was emanating from his mouth, thereby supporting the medical report.

21. If the disciplinary authority was certain that the petitioner had consumed alcohol and that such allegation stood corroborated by a breath analyser test, it ought to have produced the breath analyser report and examined the person who conducted the test. In the absence of such evidence, no definitive conclusion regarding the consumption of alcohol could legally be drawn.

22. In *Bachubhai Hassanalli Karyani v. State of Maharashtra, (1971) 3 SCC 930*, the Hon'ble Supreme Court categorically held that the consumption of alcohol is best established through scientific examination of blood or urine samples. Merely because the breath of a person smells of alcohol, or because his gait is unsteady or his speech is slurred, such circumstances, by themselves, are insufficient to conclusively establish consumption of alcohol.

23. Even if this Court were to assume and accept the contention of the State-respondents that the consumption of toddy falls within the definition of "liquor" under Section 2(16) of the Bihar Prohibition and Excise Act, 2016, and is, therefore,



prohibited and punishable, for which the petitioner has been held guilty, such contention cannot be sustained for the simple reason that no such charge was ever levelled against the petitioner while framing the memorandum of charge (Prapatra 'K'). This Court, in the aforesaid premise, has no hesitation in holding that the charge framed against the petitioner is not only contrary to the medical report but is also vague and devoid of the requisite particulars.

24. During the departmental inquiry, several witnesses were examined. However, none of them supported the charge to the extent that the petitioner had consumed alcohol. On the contrary, they merely deposed that a breath analyser test was conducted and it allegedly reflected an alcohol content of 82.6 mg per 100 ml. The petitioner specifically disputed the said assertion and consistently maintained that he had consumed toddy on the advice of his medical practitioner. He further requested that Dr. Pramod Kumar Pankaj, B.H.M.S., be permitted to appear as a defence witness. Such request, however, was rejected without assigning any cogent reason.

25. Once this Court has found that neither the breath analyser report was exhibited nor proved by examining the person who conducted the test, the allegation regarding consumption of alcohol cannot be said to have been established.



It is the bounden duty of the Inquiry Officer to arrive at his findings on the basis of legally admissible evidence brought on record by the parties.

26. In ***Roop Singh Negi v. Punjab National Bank & Others, (2009) 2 SCC 570***, the Hon'ble Supreme Court categorically held that material collected during investigation cannot, by itself, be treated as evidence in a departmental proceeding. Mere production or tendering of a document does not prove its contents. Consequently, neither the First Information Report nor the oral statements of witnesses referring to the alleged breath analyser test could constitute proof of the charge of consumption of alcohol in the absence of the breath analyser report itself or the testimony of the person who conducted the test.

27. From careful perusal of the inquiry report, it further reveals that the Presenting Officer failed to discharge his obligation by producing all the relevant documentary evidence and examining the witnesses necessary to establish the charge. On the contrary, the Medical Officer, who examined the petitioner immediately after the institution of the FIR and whose testimony was recorded during the departmental inquiry, consistently stated that the petitioner had consumed toddy and that the smell emanating from his breath was that of toddy.



Neither the Inquiry Officer nor the disciplinary authority has assigned any reason whatsoever for discarding the said medical opinion and testimony.

28. The disciplinary authority also failed to discharge its statutory obligation while passing the order of dismissal. The detailed reply submitted by the petitioner to the second show-cause notice was neither discussed nor considered. Instead, the disciplinary authority merely observed that even if the petitioner's defence that he had consumed toddy, was accepted, such consumption was prohibited under the Act and, therefore, the petitioner was liable to be dismissed from service. While arriving at such conclusion, the disciplinary authority completely overlooked the crucial fact that the charge framed against the petitioner was confined to the allegation of consumption of alcohol and creating nuisance under its influence. No charge whatsoever relating to the consumption of toddy had ever been framed.

29. Neither the Inquiry Officer nor the disciplinary authority adverted to the relevant statutory framework governing the manufacture and sale of Neera. The State Government itself has framed the Bihar Neera (Unfermented Juice of Palms) Rules, 2017, regulating the tapping of coconut, palmyra, date and other palm trees and permitting the



manufacture and sale of Neera through a licensing mechanism. The existence of the said statutory framework itself demonstrates that unfermented palm juice is separately recognised and regulated under law.

30. In view of the discussions made hereinabove, this Court is of the considered opinion that the charge framed against the petitioner is vague and, *prima facie*, contrary to the medical evidence available on record. The witnesses examined during the inquiry have also failed to establish the charge of consumption of alcohol. Furthermore, the Presenting Officer failed to produce the breath analyser report or examine the person who conducted the alleged test. Consequently, the findings recorded by the Inquiry Officer are wholly perverse and unsupported by legally admissible evidence. The order of punishment passed by the disciplinary authority on the basis of such findings is, therefore, unsustainable both in law and on facts.

31. Accordingly, the order of dismissal contained in Memo No. 2358 dated 29.05.2020, passed by Respondent No. 5, is hereby set aside. Consequently, the appellate order contained in Memo No. 391 dated 29.04.2021, passed by Respondent No. 4, as well as the order passed in memorial contained in Memo No. 413 dated 21.07.2023 by Respondent No. 3, being



consequential in nature, cannot survive independently and are also hereby quashed and set aside.

32. The writ petition is, accordingly, allowed.

33. The consequential benefits shall follow in accordance with law.

34. There shall be no order as to cost(s).

**(Harish Kumar, J)**

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