

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11984 of 2025

Manorma Kumari Wife of Prem Sagar Singh, Resident of Village- Sisma, Post Office- Mahsaura, Police Station- Lakhisarai (O.P Ramgarh), District- Lakhisarai at present Ward No. 07, Near Sub Post Office- Lakhisarai, Lakhisarai, Bihar. Now at present as H.M. of plus 2 Janta Uchha Vidyalaya, Ali Nagar, District- Lakhisarai., District- Lakhisarai.

... .. Petitioner/s

Versus

1. The State of Bihar through Additional Chief Secretary, Education Department, Government of Bihar, Patna.
2. The Secretary, Education Department, Government of Bihar, Patna.
3. The Director, Secondary Education, Government of Bihar, Patna.
4. The Regional Deputy Director of Education, Munger Division, Munger-cum-Enquiry Officer
5. The District Education Officer, Lakhisarai
6. The District Programme Officer (Estt.), Lakhisarai.
7. The District Programme Officer, R.M.S.A., Lakhisarai. (Rashtriya Madhyamik Shiksha Abhiyan).

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Subodh Kumar Jha, Adv. Mr. Lalan Kumar, Adv. Mr. Ashok Kumar Gupta, Adv.
For the Respondent/s	:	Mr. Navnit Kumar, AC to GP-18

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL JUDGMENT

Date : 13-01-2026

Heard Mr. Subodh Kumar Jha, learned Advocate duly assisted by Mr. Lalan Kumar, learned Advocate for the petitioner and Mr. Navnit Kumar, learned AC to GP-18.

2. The petitioner is aggrieved with the order as contained in Memo No. 241 dated 11.09.2018, issued under the signature of the respondent Director, Secondary Education, Patna, whereby the petitioner has been inflicted with the



punishment of demotion to the lowest pay scale i.e. basic grade and the petitioner is held entitled only for subsistence allowance during the period of suspension; further the petitioner has also been debarred from holding the post of Incharge Head Master, besides she shall not be deputed on any post relating to examination in future.

3. The challenge has also been made to Memo No. 295 dated 27.06.2025, issued under the signature of Secretary, Education Department, whereby the appeal preferred against the order of punishment, in pursuant to the order passed by a Bench of this Court in CWJC No. 1313 of 2019 came to be rejected.

4. During the pendency of the writ petition, it is apprised to this Court that the petitioner was extended promotion to the post of Head Master vide Annexure 13 and 14 series, but the same has also been withdrawn vide Letter No. 739 dated 13.11.2025. The aforementioned order has further put to challenge by filing an interlocutory application bearing I.A. No. 01 of 2025.

5. The relevant facts for adjudicating the issue are in a narrow compass. The petitioner while posted as Incharge Principal, Higher Secondary School, Purani Bazar, Lakhisarai was placed under suspension on account of certain imputation, in contemplation of a departmental proceeding. The memo of



charge was duly issued vide letter contained in Memo No. 113 dated 05.01.2018.

6. The petitioner was found indulge in the irregularity conducted in the Intermediate Sent Up Test, 2016 and she did not adhere the departmental order, besides involved in corrupt practices and creating disorder in the school and causing hindrances in the study work.

7. The petitioner on receipt of the memo of charge submitted a detailed written statement. The explanation of the petitioner was duly considered by the enquiry officer the charges stood not prove and accordingly, the enquiry report was duly submitted to the disciplinary authority, the copy of which is also marked as Annexure-P/4.

8. In the meantime, the petitioner challenged the order of suspension by preferring CWJC No. 7614 of 2018. A Bench of this Court disposed off the same directing the respondents to take a final decision on the suspension of the petitioner as well as on enquiry report, within a maximum period of one month. However, the respondent authority on being dissatisfied with the enquiry report submitted by the enquiry officer, directed for *de novo* enquiry at the instance of the learned Lokayukta, as is evident from the letter contained in Memo No. 738 dated 07.03.2018.



9. The petitioner again compelled to approach this Court by filing MJC No. 2011 of 2018 as the order dated 24.02.2018 was not complied within a month and during the pendency of the aforementioned application, she could come to know that disciplinary authority has ordered for fresh enquiry, without any notice or information to the petitioner, on same set of charges and evidences obtained by the complainant. The petitioner entered her appearance before the enquiry officer and asked for the necessary documents in order to give proper reply.

10. Notwithstanding the aforesaid fact, the enquiry proceeded and this time, the enquiry officer surprisingly found the charges proved and submitted second enquiry report, as contained in Letter No. 125 dated 10.07.2018 (Annexure-P/7). The petitioner was asked second show-cause, which was responded by the petitioner with a demand of certain documents for proper reply, but the same has never been made available to her and finally, the impugned order of punishment came to be passed under Letter No. 241 dated 11.09.2018, demoting the petitioner in basic grade of lower pay scale, besides other punishment, as has been noted hereinabove.

11. The petitioner on being found the order of punishment wholly without jurisdiction and in the teeth of the prescriptions provided under Bihar Government Servants



(Classification, Control & Appeal) Rules, 2005 (hereinafter referred to as, “Rules, 2005”) has approached this Court by filing CWJC No. 1313 of 2019; the same was disposed off with a liberty to the petitioner to prefer an appeal. The appeal preferred by the petitioner also did not find merit and finally came to be rejected.

12. Learned Advocate for the petitioner narrating the entire facts has submitted that after receipt of the enquiry report, in terms with Rule 17 of the Rules, 2005, if the disciplinary authority was in disagreement with the findings of the Enquiry Officer on any article of charge, he shall be at liberty to record its reasons for such disagreement and record its own finding on such charge, if the evidences on record is sufficient for the purpose. However, in the case at hand, instead of assigning any finding of disagreement, the disciplinary authority proceeded for *de novo* enquiry, which is completely *de hors* the Rule 18 of Rules, 2005.

13. Learned Advocate for the petitioner further contended that even the decision to initiate a *de novo* enquiry, has never been communicated to the petitioner nor had ever granted the opportunity of examination and cross examination of witnesses, as the same was carried out behind the back of the petitioner. Despite repeated demand for necessary



papers/documents, which were *sine qua non* to submit effective reply to second show-cause, the same was not provided and the punishment order was passed. The appeal was also rejected in a mechanical manner, without appreciation of the fact that initially the petitioner was exonerated from all the charges and has also been granted due promotion, on being found fit for the same.

14. On the other hand, learned Advocate for the State refuting the contention of the petitioner submitted that earlier enquiry report submitted by the enquiry officer was duly examined by the Director, Secondary Education and upon being dissatisfied from the enquiry report, he directed the enquiry officer to collect evidences, and in respect of irregularities committed by the petitioner to conduct a fresh enquiry and submit a report, so that it may be finally disposed off, as is evident from the Memo No. 738 dated 07.03.2018, addressed to the Under Secretary, Officer of Lokayukata, Bihar, Patna. In the light of the aforesaid direction, the enquiry officer proceeded further and after considering the materials placed by the Presenting Officer concluded that the charges levelled against the petitioner stands proved and accordingly, a fresh enquiry report was submitted vide Letter No. 125 dated 10.07.2018. The petitioner was duly served with the second show-cause notice. However, the petitioner did not submit explanation to the second show-cause



notice. The disciplinary authority thus examined the enquiry report as well as the relevant record and on being satisfied with the enquiry report, inflicted the punishment by the impugned order contained in Memo No. 241 dated 11.09.2018.

15. This Court has given anxious consideration to the submissions advanced by learned Advocate for the respective parties and also perused the materials available on record. Before parting with the case, it would be relevant to take note of certain admitted facts *inter alia* pertaining to initiation of departmental proceeding, after serving the memo of charge to the petitioner as well as submission of the enquiry report by the enquiry officer dated 24.02.2018 (Annexure-4 to the writ petition), whereby the petitioner has been exonerated from all the charges and recommendation has been made for revoking the suspension.

16. There is no material on record which transpired that after submission of the initial enquiry report, in terms with Rule 17 of the Rules, 2005, either there is any disagreement with the finding of the enquiry authority on any article of charge or any notice has been issued to the petitioner, regarding any dissatisfaction with the enquiry report. Rule 18 (1) of the Rules, 2005 categorically states that the disciplinary authority, if it is not itself the inquiring authority may, for reasons to be recorded



by it in writing, may remit the case to the inquiring authority for further inquiry and report and the inquiring authority shall thereupon proceed to hold the further inquiry according to the provisions of Rule 17 as far as may be.

17. After going through the counter affidavit as well as the communication made by the Director, Secondary Education to the Under Secretary, Office of Lokayukata, the disciplinary authority had intended not for the further enquiry, on being dissatisfied for recording any reason in writing, rather has directed for a fresh *de novo* enquiry, which is out-and-out impermissible in law. The identical issue has come up for consideration before the learned co-ordinate Bench of this Court in ***Ashok Kumar Vs. State of Bihar & Ors. [CWJC No. 7068 of 2020]***, wherein the learned Court having taken note of the mandate of the Apex Court in the case of ***K R Deb Vs. The Collector of Central Excise, Shillong (1971) 2 SCC 102*** and a subsequent decision in the case of ***Union of India Vs. K D Pandey & Anr., (2002) 10 SCC 471*** has been pleased to hold that the provisions under Rules, 2005 do not contemplate a second departmental inquiry for the same set of charges by appointing a new Enquiring Authority though further inquiry is permitted in accordance with sub-rule (1) of Rule 18 of the Rules. It would be pertinent to encapsulate the relevant



paragraph nos. 10 – 14.

*“10. In case of **K.R. Deb vs. The Collector of Central Excise, Shillong** reported in (1971) 2 SCC 102 a five Judge Constitution Bench of Supreme Court had the occasion to examine Rule 15 of the Central Civil Services (Classification, Control and Appeal) Rules, 1965 [CCS (CCA) Rules]. Rule 15(1) of CCS (CCA) Rules and Rule 18(1) of the Rules are in pari materia. Examining various provisions of the CCS Rules, the Special Bench of Supreme Court has held in case of **K.R. Deb** (supra) in paragraph 12 as under :-*

“12. It seems to us that Rule 15, on the face of it, really provides for one inquiry but it may be possible if in a particular case there has been no proper enquiry because some serious defect has crept into the inquiry or some important witnesses were not available at the time of the inquiry or were not examined for some other reason, the Disciplinary Authority may ask the Inquiry Officer to record further evidence. But there is no provision in Rule 15 for completely setting aside previous inquiries on the ground that the report of the Inquiring Officer or Officers does not appeal to the Disciplinary Authority. The Disciplinary Authority has enough powers to reconsider the evidence



itself and come to its own conclusion under Rule 9.”

*11. In a subsequent decision in case of **Union of India vs. K.D. Pandey & Anr.** and another reported in (2002) 10 SCC 471, The Supreme Court dealing with the provisions under Railway Servants (Discipline and Appeal) Rules, 1968 had disapproved a departmental inquiry being sent back in the name of further inquiry in following terms :*

“5.Indeed this resulted in second inquiry and not in a further inquiry on the same set of charges and the material on record. If this process is allowed the inquiries can go on perpetually until the view of the inquiry authority is in accord with that of the disciplinary authority and it would be abuse of the process of law. In that view of the matter we think that the order made by the High Court affirming the order of the Tribunal is just and proper and, therefore, we decline to interfere with the same. The appeal is dismissed accordingly.”

(Underlined for emphasis)

12. On examining various provisions under the Rules, I have no hesitation in reaching a definite conclusion that these provisions do not contemplate a second departmental inquiry for the same set of charges by appointing a new Enquiring Authority though further inquiry is



permitted in accordance with sub-rule (1) of Rule 15 of the Rules.

13. I have noted the fact that the Disciplinary Authority has not mentioned any inherent defect in the findings recorded by the Enquiring Authority. It is true that there may be circumstance warranting fresh inquiry if the inquiry already held is found to be inherently defective.

14. In such view of the matter, the impugned order is not legally sustainable and is accordingly set aside. The matter is remanded back to the Disciplinary Authority to pass an order afresh on the report of the Enquiring Authority strictly in accordance with the statutory provisions under Rule 18(1) of the Rules.”

18. This Court also finds that the first enquiry report exonerating the petitioner from all the charges has not been accepted by the Disciplinary Authority without assigning any reason and further with respect to the fresh or *de novo* enquiry, the petitioner has never been put to notice or afforded any opportunity of hearing; besides her repeated demand of papers/documents have been never ever answered and also deprived from the opportunity to cross examine the witnesses. Since the very direction of the fresh enquiry is *per se* illegal and against the terms of the prescription of Rule 18 of the Rules, 2005, this Court has no hesitation to hold the entire departmental proceeding from the stage of submission of the first enquiry report as bad and illegal. Accordingly, the



impugned order contained in Memo No. 241 dated 11.09.2018 stands quashed.

19. On account of quashing of the aforementioned impugned order, the appellate order contained in Memo No. 295 dated 27.06.2025 also does not survive and hereby stands quashed.

20. The authorities are also directed to restore the promotion of the petitioner, as was accorded to her during the pendency of the writ petition. The impugned order dated 31.10.2025 and its consequential order, contained in Annexure-15 series also stand quashed, in view of the impugned orders of punishment and its affirmance in the appeal, having been set aside. I.A. No. 1 of 2025 is hereby allowed.

21. The writ petition stands allowed. The consequences shall follow. However, the respondents shall be at liberty to take further action in the matter from the stage the proceeding has been found at fault, in accordance with law, if they are advised to do so.

(Harish Kumar, J)

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AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	20.01.2026
Transmission Date	NA

