

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13027 of 2024

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Dhirendra Kumar Singh @ Dheeraj Son of Sri Ram Naresh Singh, R/o Village- Mangurahan, Post - Nawada, P.S. Masharakh, District- Chhapra (Saran), Bihar, Pin - 841417. Presently posted as Assistant Section Officer, Information and Tachnology Department, Bihar, Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through the Additional Chief Secretary, General Administration Department, Government of Bihar, Patna.
2. The Additional Chief Secretary, General Administration Department, Government of Bihar, Patna.
3. The Under Secretary, General Administration Department, Government of Bihar, Patna.
4. The Principal Secretary, Urban Development and Housing Department, Bihar, Patna.
5. The Chairman-cum-Member, Revenue Board, Bihar, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.P.N. Shahi, Sr. Adv. Mr.Awadhesh Kumar Pandit, Adv.
For the Respondent/s	:	Mr.Standing Counsel (7)

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CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN
ORAL JUDGMENT

Date : 23-07-2026

Heard learned counsel for the petitioner and
learned counsel for the State.

2. Learned counsel for the petitioner submits that the
present writ petition has been filed with the following reliefs:-

*I. For setting aside the punishment order
bearing memo No. 20708 dated 07/11/2023
(annexure-P/8) issued under signature of Under
Secretary, General Administration Department,
Bihar, Patna in departmental proceeding conducted
against the petitioner in the light of memo of*



charge (prapatra- ka) issued vide memo No. 02 dated 02/01/2023 by the Urban Development & Housing Department, Bihar, Patna whereby and where under the petitioner, the then Assistant, Urban Development and Housing Department, presently Information Technology Department, Bihar, Patna has been awarded punishment of 'censure' and withholding of 03 annual increments with cumulative effect under the provisions of the Bihar Government Servant (Classification, Control and Appeal) Rules 2005.

II. For setting aside the appellate order dated 23/07/2024 (annexure -P/10) passed in Service Appeal Case No. 33 of 2023 by the Chairman-cum-Member, Revenue Board, Bihar, Patna whereby and where under punishment order awarded by the disciplinary authority has been affirmed by rejecting the service appeal filed by the petitioner without applying his independent mind on the appeal application filed by the petitioner.

3. Learned counsel for the petitioner submits that petitioner was working as an Assistant Section Officer at that relevant period of time in the Urban Development and Housing Department and one Shiva Shankar Singh was subject to Vigilance P.S. Case No.54 of 2022 lodged under Section 13(2) read with Section 13(1)(B) of the Prevention of Corruption Act for accumulating money apart from his income. It has been



alleged that on 21.10.2022, the vigilance team started searching the house of the Shiva Shankar Singh, where his son Akash Kumar was present, then on the mobile of Akash Kumar, a message through Whatsapp has been received in which one letter of Urban Development and Housing Department relating to the said complain has been found. After inquiry, Akash Kumar said that one Dheeraj Singh had taken Rs.15,000/- for giving this document. It was relating to the complaint against his father. Subsequently, the raiding team reached at the Urban Development and Housing Department, Patna along with Akash Kumar, who recognized Dheeraj Singh (the petitioner) and said that he was getting the said documents from him after payment of Rs.15,000/-. Thereafter, on the basis of same material fact, Special Vigilance P.S. Case No.56 of 2022 was lodged against the petitioner under Section 7/8 of the Prevention of Corruption Act. The petitioner was arrested on 21.10.2022 and remanded in judicial custody in the said case. But subsequently, he was granted bail on 02.12.2022. He further submits that the charges were levelled against the petitioner vide Memo No.3533 dated 20.02.2023 and summary of charges has been served upon the petitioner.

4. Senior counsel further submits that as per the



charge memo, there were four charges alleged and direction was made to submit his reply and the petitioner has submitted his reply to the same, which followed initiation of the departmental inquiry. In the departmental inquiry, no witnesses were examined, no documents were produced before the departmental inquiry. In result, the Inquiry Officer has exonerated the petitioner from 3 charges out of 4 and found only one charge proved against the petitioner.

5. Senior counsel further submits that the first charge is only relating to filing of the FIR whereas Charge No.2, 3 & 4 are relating to the description made in the charge. He further submits that filing of the FIR cannot be a charge, it may be a fact and contents of charges, which are part of Charge No.2, 3 & 4, was not found proved.

6. Senior counsel further submits that the Disciplinary Authority was agreed on the allegations made in the inquiry report that is to say that against one charge, he proceeded and issued show-cause to him. The petitioner has responded on the said second show-cause thereafter, final order has been passed in which the petitioner was imposed punishment of censure and stoppage of three annual increments with cumulative effect, which are major punishment.



7. Senior counsel further submits that in the appeal, this point has been raised, but the same was rejected thereafter, the petitioner has filed the present writ petition before this Hon'ble Court.

8. Senior counsel on the point of law submits that at the time of passing order, the Disciplinary Authority has ignored the established rule laid down under Bihar Government Servants (Classification, Control & Appeal) Rule, 2005 and submits that on the one hand, out of 4 charges, 3 charges in which content of the FIR has to be proved, were not proved, but only the fact that FIR has been lodged, was proved on the basis of which punishment has been imposed which is bad in law.

9. Senior counsel further submits that the allegation which is content of the FIR has not been proved and only filing of the FIR has been said to be proved by the Inquiry Officer on the basis of which punishment cannot be imposed. Therefore, he submits that the finding of Disciplinary Authority is absolutely in violation of Rule laid down under Rule 18 of the Bihar CCA Rule, 2005 and the Appellate Authority has also not considered the same. It is due to this reason, the original order as well as appellate order, both orders may be set aside.

10. In response thereof, learned counsel for the State



submits that there is no need of any interference in the order passed by the Original Authority as well as the Appellate Authority. He further submits that the argument made by Senior counsel for the petitioner is correct upto that extent that out of 4 charges, 3 charges have not been proved and only one charge has been proved. He further submits that filing of the FIR has been proved and it is sufficient that criminal case has been lodged against the petitioner, which is still pending awaiting trial considering that the punishment should be imposed under the departmental proceeding. He further submits that at worst, the result of departmental proceeding be kept pending till finalization of the criminal case, prior to that the decision of the departmental proceeding may not be set aside.

11. Counsel further submits that it may be decided that the decision of the departmental proceeding may be touched after the decision of the criminal case.

12. After hearing the arguments of both the parties, this Court reached on the conclusion that on the finding of the Inquiry Officer, both parties have agreed. The alleged 4 charges against the petitioner are stated as follows:-

1. पुलिस अधीक्षक, निगरानी अन्वेषण ब्यूरो, पटना के पत्रांक 2967 दिनांक 01.11.2022 द्वारा प्रतिवेदित किया गया है कि निगरानी थाना काण्ड संख्या 54/2022 के मुख्य अभियुक्त श्री शिव शंकर सिंह, कनीय



अभियन्ता, नगर निगम, पूर्णियाँ को विभागीय गोपनीय संचिका से संबंधित कागजात उनके पुत्र से 15000/- (पन्द्रह हजार) रुपये लेकर वाट्सएप के माध्यम से उपलब्ध कराने संबंधी रिश्वत लेने के आरोप में दिनांक 21.10.2022 को निगरानी अन्वेषण ब्यूरो, पटना द्वारा धारा-7/8 भ्र०नि०अधि०, 1988 (संशोधित अधिनियम 2018) एवं धारा-217 भा०द०वि० के तहत श्री धीरेन्द्र कुमार सिंह, बिहार सचिवालय सहायक, नगर विकास एवं आवास विभाग, बिहार, पटना को गिरफ्तार कर माननीय विशेष न्यायाधीश, निगरानी पटना के न्यायालय में प्रस्तुत किया गया, जहाँ से आदेशानुसार उन्हें न्यायिक हिरासत में केन्द्रीय कारा, वेऊर, पटना भेजा गया। श्री धीरेन्द्र कुमार सिंह, सहायक के उक्त कृत्य के लिए धारा-7/8 भ्र०नि०अधि०, 1988 (संशोधित अधिनियम 2018) एवं धारा-217 भा०द०वि० के तहत निगरानी थाना काण्ड संख्या 56/2022 दिनांक 21.10.2022 दर्ज है।

2. निगरानी अन्वेषण ब्यूरो, बिहार, पटना द्वारा निगरानी थाना काण्ड संख्या 54/2022 दिनांक 20.10.2022 के प्राथमिकी अभियुक्त श्री शिव शंकर सिंह, कनीय अभियन्ता, नगर निगम, पूर्णियाँ के पटना स्थित फ्लैट संख्या 102, राणा रेसीडेन्सी अपार्टमेन्ट, रायजी की गली, थाना श्री कृष्णापुरी, बोरिंग कैनाल रोड, पटना में दिनांक 21.10.2022 को तलाशी के दौरान प्राथमिकी अभियुक्त श्री शिव शंकर सिंह के पुत्र आकाश कुमार के Apple I Phone 13 (मोबाईल सं० 9102087456) के वाट्सएप मैसेज को चेक किया गया जिससे यह ज्ञात हुआ कि प्राथमिकी अभियुक्त श्री शिव शंकर सिंह ने अपने पुत्र आकाश कुमार को मोबाईल सं० 8507662240 से मैसेज भेजते हुए किसी धीरज सिंह से मिलकर 15000 / रु० रिश्वत की एवज में विभागीय कागजात को व्हाट्सएप मैसेज करने को कहा।

प्राथमिकी अभियुक्त श्री शिव शंकर सिंह के पुत्र आकाश कुमार ने उक्त कागजात को अपने व्हाट्सएप मैसेज से पिताजी (शिवशंकर सिंह) के मोबाईल नं० 9431865314 के व्हाट्सएप पर भेज दिया। प्राथमिकी अभियुक्त श्री शिव शंकर सिंह के पुत्र आकाश कुमार ने 15000/50 रिश्वत के रूप में लेने वाले श्री धीरज कुमार



की पहचान की है। व्हाट्सऐप द्वारा भेजी गई संचिका संख्या 09/ नंवि०/परि०-63/19 के पृष्ठ 36 पर अंकित कागजात वही कागजात पाये गये जो व्हाट्सऐप मैसेज में हैं। मूल संचिका श्री धीरेन्द्र कुमार सिंह की कस्टडी में है, इसका सत्यापन प्रशाखा पदाधिकारी श्री राजेश कुमार तिवारी द्वारा किया गया। जिस कागजात को व्हाट्सऐप के माध्यम से उपलब्ध कराया गया उससे अभियुक्त श्री शिव शंकर सिंह सजग हो गये एवं अपने विरुद्ध प्रत्यानुपातिक धनार्जन से संबंधित जाँच को प्रभावित करने में सफल हो सके।

3. बिहार सचिवालय अनुदेश के नियम 3.10 (1) के प्रावधानानुसार सचिवालय कर्मचारी की हैसियत से प्राप्त बातों की जानकारी पूर्णतः गोपनीय समझी और रखी जायेगी किन्तु श्री धीरेन्द्र कुमार सिंह, सहायक, नगर विकास एवं आवास विभाग, बिहार, पटना के कृत्य द्वारा अवैध तरीके से विभाग की महत्वपूर्ण सूचना लीक की गई है।

4. श्री धीरेन्द्र कुमार सिंह, बिहार सचिवालय सहायक, नगर विकास एवं आवास विभाग, बिहार, पटना का यह कृत्य बिहार सरकारी सेवक आचार नियमावली 1976 के नियम 03 (1) (i), (ii), (iii) के प्रतिकूल है।

13. It is also admitted by both of them that out of 4 charges, 3 charges were not proved and only one charge that is Charge No.1, lodging of the FIR has been proved. It is well-known that the criminal jurisprudence and service jurisprudence have two horizon. The proof of criminal jurisprudence is beyond all reasonable doubts and in the service jurisprudence, it is preponderance of probability. This Court of the view that the question of preponderance of probability shall be available when the particular fact shall be placed before the Court that is to say that the content of FIR must have been placed before the



Inquiry Officer through the mouth of the person who has made the complaint.

14. Here in the present case, the person who has made allegation in the complaint on the basis of which the FIR has been lodged, has not been produced before the Inquiry Officer. The stand of the State is that mere filing of the FIR should be treated as the gospel truth of the informant who has narrated the *Fardbeyan* cannot be accepted legally. It is due to this reason, this Court is of the firm view that the Charge No.1 i.e., filing of the FIR may be proved, but this cannot be the conclusion for preponderance of probability to be against the petitioner as it is gross violation of the rules laid down under Bihar CCA Rule, 2005. There is not single witness nor the person nor the mobile were produced or any witness narrates about that and it is due to this reason, this Court hereby set aside the punishment order bearing memo No. 20708 dated 07/11/2023 (Annexure-P/8) issued under signature of the Secretary, General Administration Department, Bihar and the appellate order dated 23/07/2024 (Annexure -P/10) passed in Service Appeal Case No. 33 of 2023 by the Chairman-cum-Member, Revenue Board, Bihar, both are hereby set aside.

15. If the petitioner shall be convicted then the



Respondent Authorities are free to take action against him in
accordance with law.

16. With the aforesaid directions and observations,
the present writ petition stands allowed.

(Dr. Anshuman, J)

Prakashmani/-

AFR/NAFR	NAFR
CAV DATE	NA
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