IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13271 of 2026

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SUSHIL KUMAR RAY @ SUSHIL KUMAR S/o-Ramdas Ray, R/o-Balbandh, P.O- Balbandh, District- Bhojpur, Bihar- 802203

... ... Petitioner/s

Versus

1. The State of Bihar Through Its Chief Secretary, Main Secretariat, Patna-800015
2. Registrar General, Hon'ble High Court of Judicature at Patna
3. Registrar (Administration), Hon'ble High Court of Judicature at Patna.
4. Bharat Bhushan Bhasin, Previous Principal District and Sessions Judge-Cum-Disciplinary Authority, Bhojpur at Ara
5. Purushottam Mishra, Present Principal District and Sessions Judge-Cum-Disciplinary Authority, Bhojpur at Ara
6. Niraj Kishor, Previous District and Additional Sessions Judge-Cum-Inquiring Authority, Bhojpur at Ara
7. Dr. Santosh Kumar, Present District and Additional Sessions Judge-Cum-Inquiring Authority, Bhojpur at Ara

... ... Respondent/s

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Appearance :
For the Petitioner/s : Mr. Abhijit Anand, Advocate
For the Respondent/s : Ms. Priya Gupta, G.P. 6
Mr. Aman Kumar, AC to G.P. 6

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CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL JUDGMENT
(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 28-09-2026

This petition has been filed by the petitioner with the following prayer(s) :-

> *"(I) Issue appropriate writ, order or direction to quash and set-aside the Departmental Enquiry report dated 10.07.2026 having Departmental Proceeding Case No. 01/ 2025 against*

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the petitioner as the same being the illegal, arbitrary and violative of ***"Bihar Government Servants (Classification, Control and Appeal) Rules, 2005" as well as the Principles of Natural Justice****;*

(II) Issue appropriate writ, order or direction to quash and set-aside the memo of charge dated 04.09.2025 issued vide the Memorandum dated 04.09.2025 by the Respondent No. 4 against the petitioner as the same being the illegal, arbitrary and against the principles/law settled by the ***Constitution Bench of Hon'ble Supreme Court of India in "Champaklal Chimanlal Shah vs. Union of India", reported in [(1963) SCC OnLine SC 317], "Amalendu Ghosh vs. District Traffic Superintendent North Eastern Railway, Katihar", reported in [(1960) SCC OnLine SC 651****;*

(III) Issue appropriate writ, order or direction to quash and set-aside the communication latter no. 69787/File No. IV-221-2022 Mise. Section, dated 22.08.2025 issued by the Respondent No. 3 to the Respondent No. 4 against the petitioner for initiation of disciplinary proceeding against the petitioner as the same being the illegal, arbitrary and against the ***"Bihar Government Servants (Classification, Control and Appeal) Rules, 2005"*** *as well as against the principles/law settled by the* ***Constitution Bench of Hon'ble Supreme Court of India in***

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"Champaklal Chimanlal Shah vs. Union of India", reported in [(1963) SCC OnLine SC 317] "Amalendu Ghosh VS. District Traffic Superintendent North Eastern Railway, Katihar", reported in [(1960) SCC OnLine SC 65];

(IV) Issue appropriate writ, order or direction to quash and set-aside the communication by the Respondent No.4 vide confidential letter No.66(C) of 2025 dated 15.05.2025 and letter No.87 (C) of 2025 dated 23.06.2025 to the Respondent No. 2 and vide letter No.100(C) of 2025 dated 18.07.2025 to the Respondent No. 3 for initiation of disciplinary proceeding against the Petitioner as the same being the illegal, arbitrary and against the ***"Bihar Government Servants (Classification, Control and Appeal) Rules, 2005"****;*

(V) Issue appropriate writ, order or direction to immediately implement the direction vide letter no. 4245-4281/File No. LVII-01(PF-4/1998/A.D (Misc.) Section issued by the Respondent No. 3;

(VI) Challenging Rule 17(5) (C) of the Bihar Government Servants (Classification, Control and Appeal) Rules, 2005, thereby Declare that the "Government Servant" mentioned under ***Rule 17(5) (C) of the Bihar Government Servants (Classification, Control and Appeal) Rules, 2005*** *cannot be denoted as it is well settled law that "Judicial Officer" is not a "Government Servant" or a mere*

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employee of the State because Judiciary is independent from State as judicial officer exercises sovereign judicial power a has been held by the ***Hon'ble Supreme Court of India in "High Court of Judicature, Patna Vs. Shiveshwar Narayan & Anr.", reported in /(2011) 15 SCC 317]****;*

Challenging Rule 17(5)(c) of the Bihar Government Servants (Classification, Control and Appeal) Rules, 2006, thereby;

(VII) Declare that whenever the Disciplinary Authority appoint a "Government Servant" as "Inquiring Authority" as per Rule 17(5) (C) of the Bihar Government Servants (Classification, Control and Appeal) Rules, 2005, cannot appoint any "Judicial Officer" as "Inquiring Authority" as "Judicial Officer" is not a "Government Servant" or a mere employee of the State because Judiciary is independent from State as judicial officer exercises sovereign judicial power; and

(VIII) Pass any other order(s) which this Hon'ble Court deem fit and proper in the interest of Justice.

A. INTERIM RELIEF

Kindly grant following interim relief:-

(I) Grant of ad-interim ex-parte stay on Enquiry report dated 10.07.2026 having Departmental Proceeding Case No. 01/2025 initiated against the Petitioner till the pendency of the

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instant writ petition or till the Respondents file their reply/counter affidavit;

(II) Kindly pass ad-interim ex-parte stay on communication by the Respondent No. 4 vide confidential letter No.66(C) of 2025 dated 15.05.2025 and letter No.87 (C) of 2025 dated 23.06.2025 to the Respondent No. 2 and vide letter No.100(C) of 2025 dated 18.07.2025 to the Respondent No. 3 for initiation of disciplinary proceeding against the petitioner as the same being the illegal, arbitrary and against the ***"Bihar Government Servants (Classification, Control and Appeal) Rules, 2005*** *till the pendency of the instant writ petition or till the Respondents file their reply/counter affidavit;*

(III) Kindly pass ad-interim ex-parte stay on memo of charge dated 04.09.2025 issued vide the Memorandum dated 04.09.2025 by the Respondent No. 4 against the petitioner till the pendency of the instant writ petition or till the Respondents file their reply/counter affidavit;

(IV) Kindly pass ad-interim ex-parte stay communication latter no. 69787/File No. IV-221-2022 (Misc.) Section, dated 22.08.2025 issued by the Respondent No. 3 to the Respondent No. 4 till the pendency of the instant writ petition or till the Respondents file their reply/counter affidavit;

(V) Kindly pass ad-interim ex-parte order, direction to immediately implement the direction vide letter no. 4245-

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4281/File No. LVII-01(PF-4/1998/A.D (Misc.) Section issued by Respondent No. 3;

(VI) Kindly pass ad-interim ex-parte order thereby the hearing in the instant writ petition be fixed by this Hon'ble Court after every 30 days reliance is placed upon the Three-Bench of ***Hon'ble Supreme Court of India in "Dr. Duryodhan Sahu & Ors. vs. Jitendra Kumar Mishra & Ors." reported in [(1998) 7 SCC 273]****;*

(VII) Make it absolute after notice to the Respondents; and

(VIII) Pass any other order(s) which this Hon'ble Court deems fit and proper in the interest of Justice."

2. In fact, the petitioner is challenging the Inquiry Report dated 10.07.2026 in departmental proceedings as being illegal, arbitrary, and violative of Bihar Government Servants (Classification, Control and Appeal) Rules, 2005 (hereinafter referred to as 'the Rules of 2005') as well as the principles of natural justice.

3. It is the conceded case that the memo of charge dated 04.09.2025 was issued to the petitioner by the respondent no.4. The same has resulted in the proceedings against the petitioner. The said proceedings have resulted in a report submitted by the Inquiry Officer. Pursuant thereof, a notice dated 20.07.2026 has been issued enclosing therewith the

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Inquiry report. Concedingly, the said notice dated 20.07.2026, at page no.192, has not been challenged in these proceedings.

4. The submission of Mr. Abhijit Anand, learned counsel for the petitioner is that the petitioner has only challenged the charge sheet dated 04.09.2025 and the Inquiry report dated 10.07.2026, as according to him the same are illegal and violative of the Rules of 2005. His submission is primarily that the proceedings have been initiated against the petitioner pursuant to the directions given by the Registrar General of this Court and, as such illegal. That apart, it is the submission that in terms of the Rules of 2005, it is only the Government Servant who can be the Inquiry Officer and not a Judicial Officer as in the case in hand.

5. Though the petitioner has not challenged the notice dated 20.07.2026, which has been issued to the petitioner enclosing therewith the copy of Inquiry report dated 10.07.2026, it is the conceded position that the petitioner has filed a reply to the notice dated 20.07.2026 on 03.08.2026.

6. On a query, Mr. Anand states that the petitioner be granted two weeks' time to file an additional reply to the report dated 10.07.2026/ notice dated 20.07.2026.

7. Noting the submission, the additional reply shall be

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filed within two weeks from today. It goes without saying that the petitioner shall be at liberty to take all such pleas as available to him both on facts and in law for the consideration of the Competent/Disciplinary Authority.

8. It is reiterated that the Competent Authority/Disciplinary Authority shall consider the replies and pass order in accordance with law.

9. The writ petition stands disposed of.

10. Pending application(s), if any, shall also stand disposed of.

(V. Kameswar Rao, CJ)

(Partha Sarthy, J)

shailendra/-

AFR/NAFR	
CAV DATE	NA
Uploading Date	01.10.2026
Transmission Date	NA

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