

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.714 of 2026

Mukesh Kumar Son of Dhaneshwar Singh, Resident of Bisar Tank New Area, P.S.- Civil Line, P.O.-Gaya, District-Gaya, Presently Posted as Joint Registrar (Audit) Cooperative Societies, Bhagalpur Division, Bhagalpur, Combined Building Manali Chouck, Near Nagar Nigam Office, Bhagalpur.

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Cooperative Department, Government of Bihar, Patna.
2. The Principal Secretary, Cooperative Department, Government of Bihar, Patna.
3. The Deputy Secretary, Cooperative Department, Government, of Bihar, Patna.
4. The Joint Registrar Audit Cooperative Societies, Bihar, Patna.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Ashok Kumar Karna, Advocaet
For the Respondent/s : Mr. Saurav Kumar, AC to GA-5

CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN
ORAL JUDGMENT

Date : 02-02-2026

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

2. The present writ petition has been filed for the
following relief/s :-

“(i) For quashing the Show Cause Notice contained in Letter No. 1653 dated 29.06.2021 issued by Respondent Deputy Secretary, Cooperative Department, Government of Bihar invoking Rule-28 of the Bihar C.C.A. Rules, 2005 on the ground of being in breach of Rule -28 and thus a nullity in the eyes of law.

(ii) For quashing the Notification No. 1657 dated 30.06.2021 awarding punishment of reduction to a lower stage in the time of scale of pay for a period of 03 years on the ground that once the invocation of proceeding under Rule 28 C.C. Rule 2005 being illegal, without jurisdictiona nd a nullity in the eyes of law, all consequential



orders including the punishment is also illegal based on the Principles of Sublato fundamento as settled by the Hon'ble Supreme Court in the case of State Vs. Davindar Pal Singh reported in 2011(14) SCC 770 (Para-107) holding that a void act cannot be validated by a subsequent steps.

(ii) For a direction to the Respondent Authority to restore the status of the petitioner in the correct time scale of pay along with consequential monetary benefits as punishment awarded by the Respondent Authority vide order contained in Notification No. 1657 dated 30.06.2021 is itself without jurisdiction and nullity in the eyes of law.

(iii) For a direction to pay full salary for the entire period of suspension after adjusting the subsistence allowance and allowing the Revision of subsistence allowance as per law as held by Full Bench of the Hon'ble High Court, Patna in the case of Mahavir Prasad Vs. The State of Bihar reported in 1998 PLJR 82 holding mandatory requirement of separate Notice independent reasoned order for denying salary for the suspension period.

(iv) For a declaration that the proceeding under Rule 28 CCA Rules can be initiated only within 06 months from the date of order of earlier punishment hence, the initiation of proceeding including the consequential order are without jurisdiction.

(v) For further declaration that the impugned order under Notification No. 1657 dated 30.06.2021 does not discuss the reasons for revising the earlier punishment under Notification 2684 dated 16.10.2020 which had already been implemented as the Petitioner suffered denial of promotion for three years on account of punishment of censure as per CCA Rules and he also suffered the illegal denial of full salary for the period of suspension.

(vi) For further declaration that the Show Cause Notice under Letter No. 1653 dated 29.06.2021 as issued was not only beyond 06 months statutory time line but also without any reference of penalty proposed as per first proviso to Rule 26 CCA Rules 2005.

(vii) For further declaration that a void order cannot be validated on account of limitation on that a void order has no legal existence and the same is always open to be challenge at any stage.

(viii) For further declaration that once the punishment under Notification 2684 dated 16.10.2020 is already implemented, imposition of further punishment of



reduction to the lower stage under Notification 1657 dated 30.06.2021 is in fact second punishment / double jeopardy being in violation of Article 21 of the Constitution of India.

(ix) For a direction to the revisional /appellate authority to dispose of the appeal whose long pendency is in breach State Litigation Policy apart from causing prejudice to the Petitioner for having suffered reduction to a lower rank in a proceeding which is without jurisdiction and without sanction of law.”

3. Learned Senior Counsel for the petitioner submits that the petitioner was a government servant and was subjected to punishment pursuant to a departmental proceeding vide Notification No. 2684 dated 16.10.2020. The punishment imposed upon the petitioner was that of censure for the period from 14.07.2014 to 14.01.2017, along with denial of full salary for the suspension period from 12.10.2018 to 16.10.2020. Learned Senior Counsel further submits that no separate notification was ever issued by the department specifically denying full salary for the suspension period, except payment of subsistence allowance.

4. It is further submitted that the petitioner filed a representation seeking revision of his subsistence allowance. However, the authority concerned invoked Rule 28 of the CCA Rules, 2005 and issued a show cause notice without disclosing any proposed punishment or the object of such revision, vide Letter No. 1653 dated 29.06.2021. Surprisingly, the punishment



order was revised on the very next day, i.e., 30.06.2021. Learned Senior Counsel submits that Rule 28 of the CCA Rules, 2005 has been enacted for the employer/government, and as per the mandate of law, revision of punishment can be undertaken only within six months, and that too after clearly mentioning the proposed punishment and affording reasonable opportunity to the delinquent employee.

5. It is further submitted that in the present case, the impugned orders contained in Letter No. 1653 dated 29.06.2021 (show cause notice) and Notification No. 1656 dated 30.06.2021 (enhanced punishment) have been passed in gross violation of Rule 28 of the CCA Rules, 2005. The violations are as follows:

(a) No show cause notice was issued specifying the proposed enhancement of punishment.

(b) The decision was taken under Rule 28 of the CCA Rules, 2005 after the lapse of the statutory period of six months.

(c) Reasonable opportunity, as mandated under Rule 28 of the CCA Rules, 2005, was not granted, inasmuch as the show cause notice was issued on 29.06.2021 and the enhanced punishment was imposed



within 24 hours on 30.06.2021.

6. Learned Senior Counsel further submits that such violation of the provisions of the CCA Rules, 2005 deserves interference by this Hon'ble Court. In support of his submissions, reliance has been placed upon the judgment of the Hon'ble Supreme Court in *Kiran Singh v. Chaman Paswan*, reported in *(1954) 1 SCC 710*, wherein, in paragraph 6, it has been held that an order passed in violation of a statutory time limit is *coram non judice*, and therefore, such an order is a nullity in the eyes of law.

7. Learned counsel further relies upon the judgment in *Jagmittar Sain Bhagat v. Health Services, Haryana*, reported in *(2013) 10 SCC 136*, wherein paragraphs 9, 10, and 11 deal with the issue of jurisdiction, holding that an order passed without jurisdiction is void and unenforceable, and that factors such as limitation, waiver, or acquiescence do not cure such a defect. Learned Senior Counsel submits that in the present case, the objection goes to the very root of jurisdiction, particularly where the existence of jurisdiction is a condition precedent for passing the order.

8. It is further submitted that similar statutory time limits have been prescribed in other enactments, such as Section



35-H(1) of the Central Excise Act, 1944 and Section 127 of the Bihar Electricity Act, 2023, where the time limits prescribed under the statute are mandatory and not extendable. Learned Senior Counsel further submits that the order dated 30.06.2021 was challenged before the appellate authority on 30.11.2021, but the appellate authority has failed to pass any final order and has kept the matter pending for the last four years, causing grave prejudice to the petitioner. Due to this inaction, the petitioner has been constrained to approach this Hon'ble Court by filing the present writ petition.

9. It is lastly submitted that both the revision notice dated 29.06.2021 and the final order dated 30.06.2021 have been issued in gross violation of the provisions of the CCA Rules, 2005 as well as the principles of natural justice, inasmuch as the show cause notice was issued on 29.06.2021 and the final order was passed the very next day without granting reasonable opportunity. On these grounds alone, Learned Senior Counsel submits that neither the notice for revision nor the final order passed on the next day is sustainable in the eyes of law, and therefore seeks immediate interference by this Hon'ble Court by setting aside the impugned Notifications dated 29.06.2021 and 30.06.2021.



10. Learned counsel for the State, on the other hand, submits that upon a reading of Rule 29 of the CCA Rules, 2005, a period of six months has been prescribed. However, Rule 28(3) also provides that an application for revision shall be dealt with in the same manner as provided under the said rule. He further submits that under Rules 23 to 25 of the CCA Rules, 2005, the period prescribed for filing an appeal is 45 days, with a further provision that the appellate authority may entertain an appeal even after expiry of the said period, provided it is satisfied that the appellant had sufficient cause for not preferring the appeal within the prescribed time. On the aforesaid basis, learned counsel for the State submits that while interpreting Rule 28 of the CCA Rules, 2005, the provisions contained in the proviso to Rule 25 of the CCA Rules, 2005 ought to be taken into consideration. He submits that by adopting a liberal interpretation of Rule 28 read with Rule 25 of the CCA Rules, 2005, it may be held that the period of six months is not an absolute or inflexible limitation, and that the said period also includes the power to condone delay, where sufficient cause is shown.

11. Learned counsel further submits that the judgments relied upon by the petitioner are of no assistance to



the present case, inasmuch as the statutory scheme itself is clear and permits such an interpretation.

12. Upon hearing the parties, this Court deem it appropriate to discuss rule 28 of the CCA Rules, 2005 as under :-

“28. Notwithstanding anything contained in these Rules,-

(i) the Government, or

(ii) the head of a department directly under the Government, in the case of a Government servant serving in a department or office, under the control of such head of a department, or

(iii) the appellate authority, or

(iv) any other authority specified in this behalf by the Government by a general or special order, and within such time as may be prescribed in such general or special order, may at any time within six months of the date of the order proposed to be revised, either on his or its own motion or otherwise call for the records of any inquiry and revise any order made under these Rules or under the Rules repealed by the Rule 32 (from which an appeal is allowed but from which no appeal has been preferred or from which no appeal is allowed), after consultation with the Commission where such consultation is necessary, and may-

(a) confirm, modify or set aside the order, or

(b) confirm, reduce, enhance or set aside the penalty imposed by the order, or impose any penalty where no penalty has been imposed, or

(c) remit the case to the authority, making the order or to any other authority, directing such authority, to make such further inquiry as he may consider proper in the circumstances of the case, or

(d) pass such other orders as it may deem fit: Provided that no order imposing or enhancing any penalty shall be made by any revising authority unless the Government Servant concerned has been given a reasonable opportunity of making a representation against the penalty proposed and where it is proposed to impose any of the penalties specified in clauses (vi) to (x) of Rule 14 or to enhance the penalty imposed by the order sought to be



revised to any of the penalties specified in those clauses, no such penalty shall be imposed without an inquiry in the manner laid down in Rule 17 and after giving a reasonable opportunity to the Government Servant concerned of showing cause against the penalty proposed on the evidence adduced during the inquiry and except after consultation with the Commission where such consultation is necessary: Provided further that the power of revision shall be exercised by the head of department, unless-

(i) the authority which made the order in appeal, or

(ii) the authority to which an appeal would lie, where no appeal has been preferred, is subordinate to him.

(2) No proceeding for revision shall be commenced until after

(i) the expiry of the period of limitation for an appeal, or

(ii) the disposal of the appeal, where any such appeal has been preferred.

(3) An application for revision shall be dealt with in the same manner as if it were an appeal under these Rules.”

13. From a bare reading of Rule 28 of the CCA Rules, 2005, it transpires that four categories of authorities are empowered to entertain a revision within six months from the date of the order proposed to be revised. In the present case, it is evident to this Court that the revisional proceedings were initiated after the expiry of six months, and further, the revisional order was passed on the very next day. It is also apparent that under the second proviso to Rule 28, a clear restriction has been imposed, mandating that the government servant concerned must be afforded a reasonable opportunity of



making representation against the penalty proposed. For these reasons, the following infirmities are apparent in the present case:

“(i) The decision to undertake revision of the earlier order was taken after the lapse of six months. (ii) The final punishment order was passed on 16.10.2020, whereas the show cause notice was issued on 29.06.2021, i.e., beyond the statutory period of six months, and (iii) the revisional order was passed on the very next day.”

14. This, in the considered opinion of this Court, constitutes a gross violation of Rule 28 of the CCA Rules, 2005. It has been jointly submitted by the learned counsel for the petitioner as well as learned counsel for the State that an appeal against the final order is admittedly pending before the appellate authority.

15. In view of the same, this Court deems it appropriate to decide the legal position and refer the matter back to the appellate authority where the petitioner’s appeal is pending.

16. Accordingly, the appellate authority is directed to pass a reasoned and speaking order within a period of sixty (60) days from the date of receipt/production of a copy of this



order. It is further directed that while deciding the appeal, the appellate authority shall take into consideration the legal position as determined by this Court and pass an appropriate order within the stipulated period.

17. However, the petitioner shall be at liberty to file additional written submissions/notes, if so advised. The period of sixty days shall be reckoned from the date of submission of such additional notes.

18. With the aforesaid observations and directions, the present Writ Petition stands disposed of.

(Dr. Anshuman, J)

Ashwini/-

AFR/NAFR	
CAV DATE	NA
Uploading Date	04/02/2026
Transmission Date	NA

