

(2026) 08 PAT CK 2518

In the Patna High Court

Case No : Civil Writ Jurisdiction Case No.13405 of 2022

Ranjeet Kumar Mishra

APPELLANT

Vs

Bihar School Examination Board & Ors.

RESPONDENT

Date of Decision : 03-08-2026

Acts Referred:

Bihar School Examination Board Regulation 1964
Cr.P.C. — Section 161
Bihar CCA Rules, 2005

Citation : (2026) 08 PAT CK 2518

Hon'ble Judges : Dr. Anshuman, J

Bench : Single Bench

Advocate : Mr.Binodanand Mishra, Sr. Adv., Ms.Saumya Sinha, Adv., Mr.Gunjan Kr. Jha, Adv., Mr.P.K. Shahi, Sr. Adv., Mr.Satyabir Bharti, Adv., Ms. Aastha Prakash, Adv.

Final Decision : Allowed

Judgement

Date : 03-08-2026 Heard Mr. Binodanand Mishra, learned Senior counsel with Ms. Saumya Sinha, Adv. for the petitioner and Mr. P.K. Shahi, learned Senior counsel with Mr. Satyabir Bharti, Adv. for the Bihar School Examination Board (BSEB).

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

- i. *For issuance of an order, direction or writ including writ in the nature of certiorari quashing the office order dated 03.08.2022 contained in memo no. 846/2022 whereby the Appeal preferred by the petitioner against the order of punishment issued by the disciplinary authority dated 26.08.2021 has been rejected.*
- ii. *For issuance of an order, direction or writ including writ in the nature of certiorari quashing the office order dated 26.08.2021 contained in ??? ??. 859/2021 issued by the respondent Secretary of the Board.*
- iii. *For issuance of an order, direction or writ including writ in the nature of certiorari,*

quashing the Memo of Charge dated 26.11.2018 issued by the respondent Secretary of the Board.

iv. For issuance of an order, direction or writ including writ in the nature of mandamus, commanding the respondents not to give effect to the office order dated 26.08.2021 and 03.08.2022 contained in memo no. 859/2021 and 846/2022 respectively.

v. For issuance of an order, direction or writ including writ in the nature of mandamus commanding the Respondents to reinstate the petitioner in service on the Class-IV of the peon with all consequential benefits including back wages.

vi. For issuance of an appropriate declaration holding that the departmental proceeding is vitiated in as much as the provisions of Bihar School Examination Board Regulation 1964 has been violated in issuing memo of charge to the petitioner.

vii. For issuance of an appropriate declaration holding that none of the charges were proved and the disciplinary proceeding was not conducted in accordance with the provisions of Bihar School Examination Board Regulations 1964.

viii. For issuance of an appropriate declaration holding that petitioner has not committed any misconduct and he has been unduly harassed by subjecting to the departmental proceeding.

ix. For any other relief(s) to which the Petitioners may be found entitled in the facts and circumstances of the present case.

3. Prior to initiation of argument, learned Senior counsel for the BSEB submits that in the present case, the charge memo, the inquiry report and the basis of finding of the inquiry report are in such a form that the order of punishment may not sustain.

4. Senior counsel further submits that the evidence recorded in the criminal proceeding under Section 161 of the Cr.P.C. has been taken care by the Inquiry Officer. He further submits that the preliminary inquiry report has not been provided to the petitioner prior to initiation of the departmental inquiry rather it has been provided at the time of providing the second show-cause. He further submits that though the proceeding is defective, but the allegation is so grave in nature that requires a fresh consideration. Therefore, he fairly submits that the matter may be remanded back for initiation of fresh proceeding.

5. Learned Senior counsel for the petitioner submits that such matter has been tested by Co-ordinate Bench of this Hon'ble Court in **CWJC No.3604 of 2015 with analogous cases** in case of **Michael Francis Vs. the Bihar School Examination Board & Ors.,** which has arisen from the same charges, but relating to other delinquents.

6. Upon perusal of the said judgment, whose relevant paragraph Nos.25- 28 state as follows.

25. Therefore, it is patently clear that both under the Bihar CCA Rules, 2005 as well as under the Regulations of 1964, it is mandatory that the memo of charge must accompany the list of documents as well as list of witnesses in support of the charges. It is also clear that the opportunity to the delinquent to cross-examine the witnesses is necessary to uphold the fairness and non-arbitrariness in the departmental proceedings. However, in

the present case, neither the memo of charge contains the list of witness/documents nor the petitioners were given an opportunity to cross-examine the witness(s), who had deposed against them. Moreover, the call records which was relied heavily in the enquiry report is neither produced nor proved in the departmental proceedings. Therefore, this Court is of the considered opinion that on the aforesaid grounds the disciplinary proceeding stands vitiated.

26. The Hon'ble Supreme Court in the case of State of Uttar Pradesh vs. Ram Prakash Singh, reported in 2025 SCC OnLine SC 891 has held once a departmental proceeding is found to be vitiated on procedural grounds and the Court sets aside an order of punishment then the correct course would be to remit back the matter for fresh consideration.

27. For the foregoing reasons, the impugned orders of punishment contained in memo nos. 66 and 67 dated 16.01.2024 as well as the appellate orders dated 19.12.2024 and 08.01.2025 are quashed in both the cases. The matter is remanded back to the respondent-Board for fresh consideration of the matter from the stage of issuance of memo of charge.

28. With the aforesaid observations and directions, these writ petitions are allowed to the above extent.

this Court finds that the orders impugned are not sustainable and therefore, the order dated 03.08.2022 contained in memo no. 846/2022 passed by the Appellate Authority, the order dated 26.08.2021 contained in Memo N?. 859/2021 passed by the Disciplinary Authority are set aside. The matter is remitted back for fresh consideration from the stage of issuance of memo of charge.

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