



**HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JODHPUR**

S.B. Civil Writ Petition No. 14073/2016

Rajaram S/o Sh. Banwari Lal, R/o 12/5, Mukta Prasad Colony,
Bikaner

-----Petitioner

Versus

1. The State of Rajasthan through the Principal Secretary,
Home Department, Government of Rajasthan,
Secretariat, Jaipur
2. The Inspector General of Police, Bikaner Range, Bikaner
3. The District Superintendent of Police, Bikaner
4. The Additional Superintendent of Police Rural, Bikaner
Departmental Inquiry Officer

-----Respondents

For Petitioner(s)	:	Mr. G.R. Punia, Sr. Advocate assisted by Dr. Shanti Choudhary and Mr. Sanjay Rewar
For Respondent(s)	:	Mr. Raj Singh Bhati for Mr. Ritu Raj Singh Bhati

JUSTICE DINESH MEHTA

Order

REPORTABLE

25/02/2025

1. The petitioner has approached this Court feeling aggrieved of
the order dated 14.10.2014 (Annexure-12) passed by the Deputy
Superintendent of Police, whereby he has been dismissed from
services so also the order dated 03.10.2016, whereby the appeal
filed thereagainst has been rejected.



2. The facts of the case are shocking to say the least – they unravel how the respondents have proceeded against the petitioner, practically in absence of any evidence or material. Simply because, he happened to be uncle of one Naresh on whose behalf another person (Sukhdev) was caught participating in the race held for the recruitment of constable.

3. On fateful day i.e. 13.04.2013, race being integral part of the recruitment process was being conducted at Swami Keshwanand Agriculture University Stadium, Bikaner (hereinafter referred to as 'the University') during which pursuant to a complaint, the respondents came to know that a person wearing chest No.407 was impersonating the actual candidate and taking part in the race. Said impostor – Sukhdev was later on intercepted and on inquiry, it was revealed that he was doing so in place of Naresh.

4. An FIR came to be registered against said Naresh while also implicating the petitioner and the impostor.

5. The respondents got preliminary enquiry conducted firstly by a Deputy Superintendent of Police, who submitted a report dated 17.09.2013 and gave a clean chit to the petitioner while recording that on 13.04.2013, the petitioner was not present on the track of the University and was rather engaged discharging his duties in other recruitment (Jail Prahri) at Police Lines.

6. The respondents were however, not satisfied with the report and another preliminary inquiry was ordered. This time a report dated 11.11.2013 came to be furnished by another Deputy Superintendent of Police, who also found the petitioner to be absent in or around the stadium. He however, expressed an



apprehension that the petitioner was in a position to help the candidate (Naresh). A reproduction of the extract of the report will not be out place:-

“दिनांक 13.4.13 को घटना के समय श्री राजाराम हैड कानि 18 की स्वामी केशवानन्द कृषि विश्वविद्यालय के स्टेडियम में द्वितीय चरण पीईटी (दौड़) ट्रेक पर मौजूदगी नहीं पाई गई। श्री राजाराम हैड कानि 18 घटना के समय बीकानेर में जेल प्रहरियों की भर्ती परीक्षा में जाब्ले की ड्यूटी लगाने हेतु पुलिस लाइन में मौजूद थे जो घटना के बाद उच्चाधिकारियों के द्वारा बुलाने पर स्टेडियम पर गये। प्राथमिक जांच से श्री राजाराम हैड कानि 18 का घटना में प्रत्यक्ष रूप से सरीक होना नहीं पाया गया, किंतु कथितआरोपी नरेश बिश्नोई राजाराम हैडकानि का भतिजा है तथा सुखदेव कानि. स्वजातिय बन्धु है, क्योंकि राजाराम हैडकानि पुलिस लाइन में हवलदार मेजर के पद पर इस घटनाक्रम के दौरान पदस्थापित था इसलिए परिस्थितिजन साक्ष्य जो बनते हैं, वह उसकी भूमिका को संदिग्ध बनाते हैं, अप्रत्यक्षरूप से यह माना जा सकता है कि राजाराम हैडकानि. अपने पद के प्रभाव से कथित आरोपीगणों की मदद करने की स्थिति रही है। अतः समस्त जांच से एक तो राजाराम हैडकानि इस घटना के प्रकरण में गिरफ्तार हुआ है तथा दूसरा यह मामला राजाराम हैडकानि. के विरुद्ध परिस्थितिजनय व्यवहार से भी आंशिक रूप से प्रमाणित है।”

7. In the meantime, the petitioner was placed under suspension and later on disciplinary proceedings were launched against him under Rule 16 of the Rajasthan Civil Services (Classification, Control & Appeal) Rules, 1958 (hereinafter referred to as the 'Rules of 1958').

8. A charge-sheet with memorandum of charges dated 21.04.2014 came to be served upon the petitioner, which levelled two allegations against him, first, related to the petitioner's alleged involvement in connivance with a view to give undue advantage to his nephew – Naresh along with the impostor namely, Sukhdev who took part in the race while the second charge related to dent in the image of the department due to publication of such news in the newspapers.

9. An inquiry officer was appointed, before whom petitioner filed his representation/reply denying all the allegations and



charges; the petitioner was allowed a defence counsel, who cross-examined the witnesses and defended petitioner's cause.

10. The inquiry officer furnished his report dated 10.10.2014, which came to be supplied to the petitioner alongwith a notice dated 10.10.2014 issued by the disciplinary authority - Superintendent of Police, Bikaner, wherein both the charges levelled against the petitioner were found proved.

11. The disciplinary authority giving only three days' time to file reply, called upon the petitioner to show cause, why major penalty prescribed in clause (iv) to (vii) of Rule 14 of the Rules of 1958 be not inflicted upon him?

12. The petitioner filed a reply to the notice and pleaded that he was innocent, but the respondent No.3 hustled in passing an order on the very day (14.10.2014) and dismissed the petitioner from the services.

13. The petitioner preferred an appeal against the above order of dismissal, which too was rejected by the Appellate Authority vide its order dated 03.10.2016.

14. Mr. Punia, learned senior counsel contended that the respondents have proceed vindictively against the petitioner and in spite of the fact that there was no evidence or material against him, firstly, the inquiry officer had found both the charges proved and thereafter, the disciplinary authority too without considering petitioner's reply/representation, inflicted the extreme penalty of dismissal from the service.

15. Learned senior counsel argued that even the Appellate Authority did not consider the factual matrix in its true perspective



and mechanically rejected petitioner's appeal with a non-speaking and unreasoned order.

16. Learned senior counsel navigated the Court through the inquiry report dated 10.10.2014 and highlighted that though all the witnesses PW-1 to PW-22 in unison had stated that the petitioner was not available on the track of the University, when said Sukhdev was taking part in the race yet, the inquiry officer had held both the charges to be proved.

17. He submitted that it was only PW-21 – Shivbhagwan, who had given some deposition against the petitioner and that too on the basis of so called circumstantial evidence. He underscored that even this witness (PW-21), had not stated anything beyond asserting that the petitioner was in a position to exert undue pressure - but no evidence in this regard was led/produced.

18. Learned senior counsel emphatically argued that the inquiry report dated 10.10.2014 is clearly contrary to the facts involved and evidence adduced in the case and added that orders based on such report are liable to be quashed and set aside.

19. Learned senior counsel further submitted that the petitioner could not have been punished for the fault or even offence of his nephew – Naresh, unless some material pointing towards his involvement was brought on record. The Court's attention was also drawn towards the order dated 24.03.2018 passed by Special Additional Chief Judicial Magistrate, PCPNDT Act Cases), Bikaner whereby, not only the petitioner even his nephew – Naresh and the purported impostor - Sukhdev have been acquitted.

20. Learned counsel for the respondent-State, on the other hand, submitted that the petitioner being a head-constable was in



a position to influence the recruitment process, which he actually did. He argued that petitioner's movement to University is found in the daily diary (*rojnaamcha*) and in the face of such finding, it cannot be said that the petitioner was not present in the University on the track, while his nephew was supposed to participate in the race.

21. Learned counsel at the end argued that in any case the arguments advanced by learned senior counsel are in the realm of appreciation of evidence, which this Court should refrain from doing while exercising its jurisdiction under Article 226 of the Constitution of India.

22. In rejoinder, Mr. Punia, learned senior counsel submitted that an additional affidavit has been filed by the petitioner on 04.05.2023, along with which, a duty-chart has been placed, which clearly demonstrates that petitioner's duty was in the Police Lines for overseeing another recruitment (Jail Prahri, 2013) and not at the University.

23. He further submitted that the finding recorded by the disciplinary authority that the daily diary (*rojnaamcha*) dated 13.04.2013 records petitioner's movement to the University is factually incorrect. He took the Court through the *rojnaamcha* report (Annex-14) and showed that petitioner's name does not find mention in the same.

24. Heard learned counsel for the parties and carefully gone through the record.

25. So far as argument of breach of mandatory requirement of giving 15 days' notice is concerned, according to this Court, as the petitioner had filed reply, such argument does not cut much ice.



26. However, if the order of the disciplinary authority is examined on the anvil of fairness or the reasonableness, the same fails miserably.

27. The order of the Appellate Authority also equally disappoints the Court, inasmuch as none of the petitioner's contentions have been dealt with and in a two line order petitioner's appeal has been dismissed.

28. According to this Court, when all the witnesses even PW-21 had denied petitioner's presence on the field/track, the inquiry report finding both the charges proved against the petitioner cannot be countenanced.

29. Normally, this Court would be slow in undertaking the fact finding exercise or appreciation of evidence in its writ jurisdiction; but in the instant case, if the inquiry report dated 10.10.2014 is looked into, it is apparent that the inquiry officer has given an absolutely erroneous and untenable report - the report is based on hypothesis and without any material or evidence.

30. It is to be noted that all the prosecution witnesses, right from PW-1 to PW-22 in unison had denied petitioner's presence on the track, when his nephew-Naresh was supposed to take part in the Physical Efficiency Test.

31. Surprisingly, PW-21 who had given second preliminary report, when appeared in the witness box, though had accepted the fact that the petitioner was not present on the track but had expressed his suspicion that on the basis of circumstantial evidence, petitioner's influence cannot be overruled.

32. On carefully wading through the inquiry report, this Court has no hesitation in holding that the inquiry report is not only



based on conjuncture and surmises but is a complete misreading of oral and ocular evidence. It has traversed way beyond the evidence and reached to an extent of being branded 'false'.

33. A perusal of the inquiry report reveals that the inquiry officer had done nothing except noticing gist of the evidence. He had neither properly dealt with the evidence nor had he given any cogent reasoning for arriving at the conclusions. The so called reason given by the inquiry officer in his report is that the petitioner was related to the candidate-Naresh and he used his position and connived to give undue influence to him.

34. The inquiry officer further recorded that the petitioner had not informed the higher authorities about the appearance of his nephew (Naresh) in the recruitment. While observing that the conclusion brought by the inquiry officer is absolutely unfounded, this Court hastens to add that if a 'Head-Constable' in the Police Department can be so influential that he can manage rather maneuver the affairs in the manner, then, the respondents should introspect their working and ponder over the sanctity of their recruitment process.

35. No evidence had been brought on record to establish nexus of the impostor (Sukhdev) and the petitioner. The allegation levelled against the petitioner and the charge no.1 cannot be said to have been proved.

36. The inquiry report is essentially based upon the testimony of Shivbhagwan (PW-21) who had given his preliminary report. Said Shivbhagwan in his examination-in-chief has simply deposed about his report (Exhibit-P/26) and had not given any additional evidence.



37. It is to be noted that in spite of the suspicion that the petitioner was behind the scene, when the impostor took part in race in place of the actual candidate-Naresh and that Sukhdev – Constable had run on the petitioner's askance, it was incumbent upon the Department to have established a link or nexus between the petitioner and the impostor. The respondents despite being Police Department, failed to bring on record the call detail reports of the petitioner and said Sukhdev. A pin-pointed question (question no.9) was posed by the defence counsel to PW-21, who clearly stated that call detail report was not obtained.

38. Beside above, testimony of Premdan RPS (PW-22) has totally been ignored by the inquiry officer and the disciplinary authority. PW-22 was the person, who was instructed by the Inspector General to keep an eye over the person wearing chest no.407. Said Premdan clearly deposed that on the completion of the race, when the candidate wearing chest no.407 was intercepted and interrogated, he disclosed his name to be Sukhdev – Constable and named his friend Naresh on whose behalf he was running.

39. Said Premdan had also deposed that when Naresh was confronted, he had clearly disclosed that Sukhdev who impersonated him was his friend while clearly denying involvement of his uncle – the petitioner. Said Premdan had also testified that the petitioner was not present on the scene and was in Police Lines, while also stating that Raja Ram – Head-Constable was not deputed with him during the physical efficiency test and he came to the ground only thereafter. According to this Court, in the face of such testimony, the inquiry officer could not and should



not have concluded the charge no.1 to have been proved against the petitioner.

40. On surfing through the report and the evidence led, this Court is unable to understand that what led the inquiry officer to conclude that both the charges are found proved. Though, the charge no.2 was not as serious but mere publication of a news of a dummy candidate taking part in the race cannot be a reason enough to hold the petitioner guilty of tarnishing the image of the Police Department. No evidence in this regard seems to have been led and curiously enough, the purported news report too have not been made part of the record.

41. Ignoring such vital aspect and sans any evidence, the inquiry officer has concluded that publication of the news has dented the reputation of the Police Department. Such finding strengthens the opinion of the Court that the respondents were hell-bent to scoop the petitioner out of the services.

42. The reason which had possibly prevailed over the inquiry officer to hold the petitioner guilty was that the petitioner had failed to inform the higher authorities about his nephew taking part in the recruitment process. Firstly, no charge in this regard was framed and secondly, since the petitioner was not deployed to discharge his duties at the stadium, where his nephew was to appear in his physical efficiency test, no fault can be found with the petitioner, who did not inform the higher authorities about his relationship with one of the candidate.

43. It is surprising to note that on 10.10.2014, the inquiry report was furnished and on the very same day, the disciplinary authority gave a show cause notice to the petitioner giving only three days'



time to file reply/representation. The petitioner did file a reply but the same was of little avail.

44. What surprised the Court even more is, that on 14.10.2014, the disciplinary authority proceeded to pass an order, that too, order of dismissal. The decision taken in such a hot haste is clearly contrary to the mandate of Rule 16(10) of the Rules of 1958.

45. In order to implicate the petitioner and bring the charges home, some evidence or material was required to be brought in. As a matter of fact, in the face of the testimony of all the witnesses that the petitioner was not available at the place of the incident and that he was discharging his duties in the Jail Prahri Recruitment, 2013 no man of reasonable prudence could have come to the conclusion, which the inquiry officer had reached.

46. Furthermore, absence of evidence against the petitioner has led to his acquittal by the competent court. This Court is not oblivious of the legal position that the strictness of the proof as required in disciplinary proceedings is much milder than what is expected in the criminal case, but in the present case, this Court hardly finds any iota of evidence against the petitioner, for which, he can be held involved in aiding or conniving with the candidate Naresh/ Sukhdev in imposterism.

47. The petitioner had been made a scapegoat, simply because he was related to the candidate Naresh - the petitioner has been penalised rather victimised for the fault of his nephew for no reasons or rhyme.

48. The writ petition is, therefore, allowed, however, without any order as to cost.



49. The inquiry report dated 10.10.2014 based on no evidence and being perverse is hereby quashed. Consequently, order of dismissal dated 14.10.2014, which hinges on such report is also hereby quashed.

50. The order of Appellate Authority which is unreasoned and non-speaking is also liable to be and hereby quashed.

51. The respondents are directed to reinstate the petitioner forthwith - not later than 30 days from today. The petitioner shall be entitled to 50% of his salary and emolument for the period between 14.10.2014 upto the date of his reinstatement. The period interregnum shall obviously be calculated for all purposes, including grant of increment and promotion.

52. The stay application and all pending applications stand disposed of accordingly.

(DINESH MEHTA),J

149-Arvind/-