

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.8413 of 2014

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Ram Bilash Prasad Son of Late Sukhdeo Mahto Resident of Village - Janhol, P.S. -
Sirdala, District - Nawada.

.... Petitioner/s

Versus

1. The State of Bihar.
2. The District Magistrate, Nawada.
3. The Block Development Officer, Meskaur, Nawada.
4. The Block Development Officer, Kashichak, Nawada.
5. The Sub-Divisional Officer, Rajauli, Nawada.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Pramod Kumar Verma
For the Respondent/s : Mr. Parth Sarthy, GA11

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CORAM: HONOURABLE MR. JUSTICE MIHIR KUMAR JHA

ORAL JUDGMENT

Date: 24-07-2015

Heard learned counsel for the parties.

The petitioner is aggrieved by an order of suspension. The petitioner holds the post of Panchayat Teacher. For the misconduct that was conducted by him, he was subjected to both departmental enquiry and criminal case. During pendency of the criminal case, the departmental enquiry was held and somehow the enquiry officer has submitted the enquiry report on 9.11.2012. Surprisingly, the copy of the enquiry report was already available to the petitioner when the disciplinary authority, namely, the Collector has not even passed any order either agreeing or disagreeing with the enquiry report and asked the petitioner to file show-cause reply.

In the considered opinion of this Court the manner in which



the departmental enquiry has been conducted by the enquiry officer and the conclusion that has been given therein are totally unsustainable. The enquiry officer has only made a paraphrasing of the memo of charge in the background of with reply given by the petitioner. That was not the purpose of departmental enquiry. As a matter of fact, the illiteracy of the enquiry officer as with regard to the matter of departmental enquiry becomes clear when he has opined that for the same charge, there cannot be two proceedings, one in the criminal case and other in the departmental enquiry. That was not the job of the enquiry officer. He had to either record that the charges were proved or otherwise. Such an enquiry report, therefore, cannot lead to exoneration of the petitioner much less revoking the order of suspension of the petitioner.

The petitioner admittedly is also facing a criminal charge and the trial is pending against him. Therefore, there would be no question of revoking the order of suspension till the criminal case remains pending against him.

In that view of the matter, while this Court is not inclined to interfere with the order of suspension of the petitioner, the Collector of the district, being the disciplinary officer of the petitioner, is hereby directed to take a final decision and if it is found that the suspension of the petitioner is still required to be continued either awaiting the result of the criminal case or for holding a fresh disciplinary

proceeding denovo, he must pass an appropriate order.

As the petitioner, in fact, is continuing under suspension even on account of the criminal case, being pending against him, this Court would direct the trial court in seisin of the Complaint Case No. 1097 of 1999 to ensure that the trial of the petitioner is hereby expedited so that the trial is concluded within a period of six months from the date of receipt of this order. Once the judgment of the trial court will be given, that may be examined by the Collector of the district to take his decision as with regard to continuation of suspension

In the event, the Collector would like to proceed for the fresh denovo proceeding, such proceeding against the petitioner also must be brought to an end within a period of six months from the date of receipt/production of a copy of this order by the Collector.

With the aforementioned observation and direction, this application is disposed of.

Let a copy of this order be sent to not only the Collector, Nawadah but also to the District and Session Judge, Nawadah for its compliance in letter and spirit.

(Mihir Kumar Jha, J)

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