

**IN THE HIGH COURT OF JUDICATURE AT PATNA**

**Civil Writ Jurisdiction Case No.11276 of 2015**

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Hemant Kumar Sinha, Son of Krishna Kant Sinha, Resident of village- Maheshpur,  
Post- Gehuni, Police Station- Teghra, District- Begusarai.

.... .... Petitioner/s

Versus

1. The State of Bihar, through Chief Secretary, Government of Bihar, Patna.
2. The Principal Secretary, Department of Health, Government of Bihar, Patna.
3. The Secretary, Department of Health, Government of Bihar, Patna.
4. The Deputy Secretary, Department of Health, Government of Bihar, Patna.
5. Mr. Deepak Kumar, the then Principal Secretary, Department of Health, Government of Bihar, Patna.
6. The Committee headed by Mr. Anand Kishore, the Secretary, Department of Health-cum-the Executive Director, SHS, Government of Bihar, Patna.

.... .... Respondent/s

with

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**Civil Writ Jurisdiction Case No. 11268 of 2015**

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Dr. Surendra Prasad, Son of Late Ram Janam Prasad, Resident of House No.-  
715/A, Mohalla- Bhagwat Nagar, behind Samrat Hospital, Post office- Bahadurpur  
Housing Colony, Kankarbagh Patna-26, Police Station- Agamkuan, District- Patna.

.... .... Petitioner/s

Versus

1. The State of Bihar through Chief Secretary, Government of Bihar, Patna.
2. The Principal Secretary, Department of Health, Government of Bihar, Patna.
3. The Secretary, Department of Health, Government of Bihar, Patna.
4. The Deputy Secretary, Department of Health, Government of Bihar, Patna.
5. Mr. Deepak Kumar, the then Principal Secretary, Department of Health, Government of Bihar, Patna.
6. The Committee headed by Mr. Anand Kishore, the Secretary, Department of Health-cum the Executive Director, SHS, Government of Bihar, Patna.

.... .... Respondent/s

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**Appearance :**

**(In CWJC No. 11276 of 2015)**

For the Petitioner/s : Mr. S.A. Narayan, Sr. Adv.  
Mr. Sanjeev Kumar, Adv.

For the Respondent/s : Mr. Ray Shivaji Nath, Sr. Adv., AAG

**(In CWJC No. 11268 of 2015)**

For the Petitioner/s : Mr. Chittranjan Sinha, Sr. Adv.  
Mr. Sanjeev Kumar, Adv.

For the Respondent/s : Mr. Ray Shivaji Nath, Sr. Adv., AAG

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**CORAM: HONOURABLE MR. JUSTICE MIHIR KUMAR JHA**

## ORAL JUDGMENT

Date: 08-09-2015

Heard learned counsel for the parties.

2. While this Court would not like to interfere with the order of suspension on account of ongoing departmental proceeding but, then, whatever has been submitted by Mr. S.A. Narayan, learned senior counsel followed by Mr. Chitranjan Sinha, learned senior counsel, in these two cases, would make out at least a case for expeditious disposal of the departmental enquiry, inasmuch as, the petitioners have a feeling that sort of witch hunting is going on against them despite no fault on their part. In this regard, attention of this Court has been invited to the following statement made by the petitioners:-

*“22(xv) That it is strange and shocking to mention the date of events which shows that how hurriedly the entire action incriminating the petitioner was taken. On 10.10.2014, the fact finding committee submitted the report. On 10.10.2014, the then Principal Secretary made recommendations in 49 pages after perusing, studying, examining and analyzing the voluminous report of Mr. Anand Kishore Committee altogether running in 689 pages along with the report submitted by Dr. K.K. Singh Committee running in 69 pages for initiating action against the petitioner and others. On 10.10.2014, the then Principal Secretary sends the file to the Secretary for taking decision against these persons. It is pertinent to mention here that the Secretary to whom the file was sent by the Principal*



*Secretary was the same person who headed the fact finding committee i.e. Mr. Anand Kishore. On the same date, i.e. 10.10.2014, the Deputy Secretary wrote detailed noting containing 13 pages after the perusal, study and analysis of the voluminous report and sends the same to the Secretary on 10.10.2014 itself. The Secretary after perusing the entire notings sends the concerned file to the Principal Secretary on 10.10.2014 and thereafter the Principal Secretary arrived at the final conclusion whereby the guilt of the petitioner has already been arrived at. From perusal of sequence of events as narrated hereinabove, it is crystal clear that the entire stage was set up and managed and the initiation of proceeding against the petitioner is only a mechanical design to hide evil designs of the authorities as the authorities have already decided to punish the petitioner anyhow. The petitioner has been able to procure the relevant extracts of notings which the petitioner craves the leave of this Hon'ble Court to bring the same on record."*

3. On the basis of this averment, it has been said that probably anything and every thing was already decided and, that is how, in a very mechanical manner, the order of suspension was passed against the petitioners.

4. Mr. Ray Shivaji Nath, learned AAG appearing for the State has however sought to defend the impugned order of suspension by taking a plea that there were prima facie material available for the Government to form its opinion with regard to holding of the enquiry



after placing the petitioners under suspension. At this stage, he has submitted, that all the documents were not required to be meticulously gone into for deciding as to whether an enquiry should be also started against the petitioners.

5. This Court, having regard to the fact that something was started under the initiative of an order of Division Bench of this Court and the Government had acted in only that perspective, it would not like to make any further observation as the same may adversely affect the ongoing enquiry one way or the other.

6. In the considered opinion of this Court, all these aspects can come to an end on the basis of the departmental enquiry to be conducted and concluded against the petitioner. As per the earlier order of this Court dated 25.8.2014, both the petitioners have already filed their written statement of defence and the matter is now pending before the Departmental Enquiry Commissioner. This Court is also informed that one Deepak Kumar Singh has already been appointed as a Presenting Officer.

7. In that view of the matter, this Court would direct the enquiry officer to ensure that the departmental proceeding against both the petitioners is taken up on priority basis and preferably on day-to-day basis so that the enquiry report is submitted within a period of four months from the date of receipt of this order.

8. It, however, goes without saying that whatever be the conclusion of the enquiry officer, the petitioners will be immediately confronted with the findings of the enquiry officer so as to elicit their response to the findings in the enquiry report enabling the government to pass a final order within a maximum period of two months from the date of response submitted by the petitioners to the enquiry report.

9. In order to again minimize the period of agony of the petitioners, this Court, at the same time, would direct that the disciplinary authority also must make available the copy of enquiry report to the petitioners for eliciting their comments/reaction within a maximum period of fifteen days from the date of receipt of the enquiry report.

10. With the aforementioned observation and direction, both the applications are disposed of.

**(Mihir Kumar Jha, J)**

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