

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14535 of 2014

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Baleshwar Prasad Lal Clerk (under suspension), District Land Acquisition Office, Muzaffarpur, S/o Late Lal Bahadur Lal, Resident of Village + P.S. Ahiyapur, District Muzaffarpur.

.... Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Department of Revenue, Government of Bihar.
2. The Principal Secretary, Department of Revenue, Government of Bihar.
3. The Commissioner Tirhut Division, Muzaffarpur.
4. The District Magistrate, Muzaffarpur.
5. The District Land Acquisition Officer, Muzaffarpur.
6. The Block Development Officer, Paru, District Muzaffarpur.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr.Ujjwal Kumar Sinha
Mr. Jitendra Singh

For the Respondent/s : Mr. Priyadarshi Matri Sharan, AC to AAG-XI

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA
ORAL ORDER

3 06-01-2015 Heard the parties.

The petitioner is aggrieved by the order dated 15.03.2014 (Annexure-11) passed by the respondent District Magistrate, Muzaffarpur, whereby the petitioner has been put under suspension in terms of Rule 9(1) of Bihar Government Servants (Classification, Control and Appeal) Rules, 2005 (in short 'Rules 2005'). He has also prayed for a direction to the respondents for payment of subsistence allowance during the period of his suspension.

Learned counsel appearing on behalf of the petitioner, while assailing the validity of the impugned order dated 15.03.2014 (Annexure-11), has submitted that, in view of infraction of Rule 9(7) of the Rules, 2005, the impugned order of suspension is liable to be set aside.

However, this Court finds that a supplementary affidavit has been filed on behalf of the petitioner, wherein it has

been stated that the charge-sheet has been issued in Form 'Ka' on 17.09.2014 against the petitioner. A copy of the charge memo has been brought on record as Annexure-13 to the supplementary affidavit. The petitioner claims to have filed his show cause/explanation on 25.09.2014 to the respondent District Magistrate denying the charges, which has been brought on record as Annexure-14 to the supplementary affidavit.

In view of the undisputed fact that now a departmental proceeding is already pending against the petitioner, therefore, in view of the judgment of a Full Bench of our own High Court in the case of The State of Bihar & Ors. Vs. Gyan Kumar Ram [2009 (4) PLJR 272], the petitioner would be deemed to be under suspension in terms of Rule 9(1) of the Rules, 2005. Hence, this Court is not inclined to interfere with the impugned order of suspension.

However, the respondent District Magistrate, Muzaffarpur is directed to pay subsistence allowance to the petitioner for the period of suspension in terms of Rule 10 of the Rules, 2005 within a maximum period of fifteen days from the date of receipt/production of a copy of this order. The respondent District Magistrate, Muzaffarpur, who is disciplinary authority, is further directed to take all steps for conclusion of the departmental proceeding pending against the petitioner at an early date preferably within a maximum period of six months from the date of receipt/production of a copy of this order.

The writ petition stands finally disposed of with the observations and directions made above.

Arvind/-

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(Birendra Prasad Verma, J)