

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1845 of 2015

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Rakesh Kumar Son of Late Vijay Pratap Sinha Resident of Village -
Satpipara, P.O AND P.S - Ram Garwah, District - East Champaran at
Motihari.

.... Petitioner/s

Versus

1. The State of Bihar
2. The Principal Secretary, Panchayati Raj Department, New Secretariat,
Patna.
3. The Director, Panchayati Raj Department, New Secretariat, Patna.
4. The Divisional Commissioner, Tirhut Division, Muzaffarpur.
5. The Deputy Development Commissioner, East Champaran at Motihari.
6. The Collector/District Magistrate, East Champaran at Motihari, District -
East Champaran.
7. The Additional Collector (Establishment), East Champaran at Motihari
District - East Champaran.
8. The Additional Collector (Departmental Enquiry), East Champarn,
Motihari
9. The District Treasury Officer, East Champaran at Motihari.
10. The Sub-Divisional Officer, Pakari Dayal, District East Champaran at
Motihari.
11. The Sub-Divisional Officer, Chakiya, District - East Champarn at
Motihari.
12. The Block Development Officer, Madhuban, Block- Madhuban, District
- East Champaran at Motihari.
13. The Senior Deputy Collector, East Champaran at Motihari.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Manoj Kumar Singh, Adv
For the Respondent/s : Mr. GP27- Purnendu Singh

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CORAM: HONOURABLE MR. JUSTICE MIHIR KUMAR JHA
ORAL JUDGMENT

3 27-07-2015 Heard learned counsel for the parties.

The prayer of the petitioner in this writ
application reads as follows:-

*“For issuance of a writ in the nature of
certiorari to quash and set aside the suspension
order issued vide memo no. 8989 dated 3.11.2012
(Annexure-2) passed by the District Magistrate,*

East Champaran at Motihari (respondent no. 6) whereby and whereunder the petitioner was illegally suspended alongwith others w.e.f. 5.9.2012.

For further issuance of a writ in nature of mandamus directing and commanding the respondents to pay the full salary along with interest for suspension period which has not been paid to the petitioner till date.

For further directing/commanding the respondents concerned to pay the other consequential benefits to the petitioner for which he is entitled to in accordance with law.”

Learned counsel for the petitioner submits that though the petitioner was placed under suspension on 03.11.2012, on the ground of there being a criminal case pending against him but then now when the authorities have passed order revoking the order of suspension on 25.07.2015, they had no jurisdiction to initiate a fresh departmental proceeding. To that extent, he has questioned the correctness of the order dated 25.07.2015 as contained in Annexure-E to the counter affidavit.

Let it be noted that the relief against the order dated 25.07.2015, was never sought in the writ application and in fact is a subsequent event which has only taken place after filing of this writ application on

28.01.2015, whereas the order in question was passed on 25.07.2015.

Thus now when the petitioner has been given expeditious relief of revocation of the order of suspension despite pendency of the criminal case against him, this Court having found the power of the authority under Rule-20 (a) of Bihar Government Servant (Classification, Control & Appeal), Rules-2005, to continue with the departmental proceeding, will not find any error in the same specially when the disciplinary authority has recorded its reasons for holding a fresh departmental proceeding which according to Collector of the district is also in process.

Thus, when the order of suspension of the petitioner has been revoked w.e.f. 25.07.2015, he becomes entitled for payment of salary for the period 25.07.2015 onwards. So far the payment of salary for the interregnum period between 03.11.2012 to 24.07.2015 is concerned that would abide by the result of the criminal

case on the ground of which the petitioner was placed under suspension. In other words, if the petitioner is fully exonerated/earns honourable acquittal in the criminal case, he would be entitled for payment of full salary for the period of suspension.

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

(Mihir Kumar Jha, J)

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