

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10320 of 2016

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Pankaj Kumar Basak Son of Sri Damodar Prasad Basak, resident of village-Beni Bahadurganj, P.O. and P.S. Bahadurganj, District - Kishanganj

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Registration, Excise and Prohibition, Government of Bihar, Patna
2. The Principal Secretary, Department of Registration, Excise and Prohibition, Government of Bihar, Patna
3. The Inspector General Registration Department of Registration, Government of Bihar, Patna
4. The Special Secretary, Department of Registration, Excise and Prohibition, Government of Bihar, Patna
5. The Under Secretary, Department of Registration, Excise and Prohibition, Government of Bihar, Patna

.... Respondent/s

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Appearance:

For the Petitioner/s : Mr. Vinay Krishna Tripathy, Advocate

For the Respondent/s : Mr. Md. Obaidullah, A.C. to SC-10

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

ORAL JUDGMENT

Date: 28-10-2016

Heard Mr. Vinay Krishna Tripathy, learned counsel appearing on behalf of the petitioner and Mr. Md. Obaidullah, Assisting Counsel to SC-10.

The petitioner is aggrieved by the notification bearing Memo No. 677 dated 04.2.2016 whereby the petitioner has been suspended on grounds of obtaining appointment by submitting a false caste certificate. The petitioner holds the post of Sub-Registrar.

Mr. Tripathy, learned counsel for the petitioner has questioned the suspension order on the following grounds:

(a) The order of suspension neither contemplates any

proceeding nor any disciplinary proceeding was pending on the date of the order;

- (b) No charges has been framed by the disciplinary authority until prayer was made by the petitioner on expiry of period of 90 days for revocation of suspension on 10.6.2016 vide Annexure-11;
- (c) The foundation for the suspension order stands removed in view of the order of this Court passed in CWJC No. 10973 of 2015;
- (d) The order of suspension restricts payment of subsistence allowance.

Although contest is made by learned State counsel to the submissions made and since the disciplinary proceeding is yet to reach its conclusion, I would not delve into the merits of the case for it is for the disciplinary authority to consider the matter on all fronts, before passing the final orders on the issue.

This Court thus for the present would restrict its consideration on the contention raised against the suspension order and in view of the undisputed position that the suspension order was not renewed on expiry of 90 days and until the date the petitioner filed his application for revocation thereof on 10.6.2016 present at Annexure-11, in view of the position settled by this Court in the Full Bench judgment reported in **2009(4) PLJR 272** at paragraph-20 (**State of Bihar vs. Gyan Kumar Ram**), the suspension order has

been rendered illegal.

In result, the order of suspension bearing Memo No. 677 dated 04.2.2016 of the State Government in its Registration, Excise and Prohibition Department impugned at Annexure-7 whereby the petitioner has been put under suspension is quashed and set aside.

Insofar as the prayer for payment of subsistence allowance is concerned, the disciplinary authority is directed to make payment thereof within three months from the date of receipt / production of a copy of the order.

The writ petition is allowed.

(Jyoti Saran, J)

S.Sb/-

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