

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.11215 of 2016

Suresh Prasad Singh, S/o - Late Lagandeo Prasad Singh, R/o - Village - Mathura Chak; P.S. – Bidupur, District - Vaishali.

.... Petitioner/s

Versus

1. The Zila Parishad Vaishali at Hajipur through its Chairman.
2. The Chairman, Zila Parishad, Vaishali at Hajipur.
3. The Deputy Development Commissioner-cum-Chief-Executive Officer, Zila Parishad, Vaishali at Hajipur.

.... Respondent/s

With

Civil Writ Jurisdiction Case No. 11073 of 2016

Ravi Ranjan Prasad Sinha, Son of Late Vindhyachal Prasad Sinha, Resident of Village- Murar, P.S.-Murar, District- Buxar, at present Junior Engineer, Zila Parishad, Vaishali at Hajipur.

.... Petitioner/s

Versus

1. The Zila Parishad Vaishali at Hajipur through its Chairman.
2. The Chairman, Zila Parishad, Vaishali at Hajipur.
3. The Deputy Development Commissioner –cum- Chief-Executive Officer, Zila Parishad, Vaishali at Hajipur.

.... Respondent/s

Appearance :

(In CWJC No. 11215 of 2016)

For the Petitioner/s : Mr. Abhimanyu Sharma, Advocate
Ms. Prakritita Sharma, Advocate
For the Respondent/s : Mr. Shri Nandan Prasad Singh, Advocate

(In CWJC No. 11073 of 2016)

For the Petitioner/s : Mr. Abhimanyu Sharma, Advocate
Ms. Prakritita Sharma, Advocate
For the Respondent/s : Mr. Shri Nandan Prasad Singh, Advocate

CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

ORAL JUDGMENT

Date: 01-08-2016

Heard Mr. Abhimanyu Sharma, learned counsel appearing
for the petitioner in the two writ petitions and the learned counsel
appearing for the Zila Parishad.

With the consent of the parties this matter has been heard and is being disposed of at the stage of admission itself.

While the petitioner in CWJC No.11215 of 2016 is aggrieved by the order bearing Memo No.1113 dated 30.11.2015 whereby the petitioner has been suspended under rule-9 of the Bihar Government Servant (Classification, Control and Appeal) Rules, 2005 (hereinafter referred to as 'the Rules'), a similar prayer is made by the petitioner in the second writ petition being aggrieved by a similar order bearing Memo No.1112 dated 30.11.2015 impugned at Annexure-4 to the writ petition.

Mr. Sharma, learned counsel appearing for the petitioners while questioning the suspension order on merits made a reference to the statements made in paragraph-3 and 6 of the supplementary affidavit to submit that the Zila Parishad has though unanimously decided to revoke the suspension, but no formal order has been passed. In paragraph-6 of the supplementary affidavit it is also being mentioned that no charge sheet has been issued. It is in consideration of the submissions advanced by Mr. Sharma that Mr. Shri Nandan Prasad Singh, learned counsel appearing for the Zila Parishad was requested to ascertain the position since if the the Zila Parishad had already passed a resolution for revoking the suspension then a mere delay in issuing a formal order could not be

a reason to continue the petitioner under suspension.

This matter was heard on 18.7.2016 and again on 25.7.2016 and adjourned for the purpose. The matter is thereafter taken up today when a five page counter affidavit is filed with no definite stand except that the Zila Parishad authorities are yet considering the resolution dated 10.3.2016. There is no answer to the statement made in paragraph-6 of the supplementary affidavit regarding non-issuance of a charge-sheet.

On oral instructions, a submission is made by Mr. Singh that charge-sheet has been served on the petitioner. In my opinion such action yet would not resolve the issue for the respondents in view of the categorical assertion of the two petitioners that the resolution had already been passed by the Zila Parishad for revoking the suspension and which resolution is not contested by the Zila Parishad.

In my opinion, since the Zila Parishad does not contest the assertions of the two petitioners made in paragraph-3 and 6 of the supplementary affidavit filed in each of the two writ petitions, that by itself is sufficient to allow these writ petitions and as a consequence the orders of suspension impugned in each of the two writ petitions at Annexure-4, are quashed and set aside.

The two writ petitions are allowed.

This order would not preclude the authorities, if so advised,
to proceed with the departmental proceedings in accordance with
law.

(Jyoti Saran, J)

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CAV DATE	
Uploading Date	11.8.2016
Transmission Date	