

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.21407 of 2014

Arvind Kumar Singh S/o Late Rup Narayan Singh Resident of Village and P.O. Madhopur Hazari, P.S. Sahebganj, District Muzaffarpur presently Superintending Engineer (Waiting for posting), Rural Works Department, Government of Bihar, Patna. Petitioner

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. The Principal Secretary, Rural Works Department, Government of Bihar, Patna.
3. The Departmental Enquiry Commissioner, Bihar, Patna-cum-Conducting Officer. Respondents

Appearance :

For the Petitioner/s : Mr. Chandan, Advocate

For the Respondent/s : Mr. AC to AG, Bihar

CORAM: HONOURABLE MR. JUSTICE SAMARENDRA PRATAP SINGH
ORAL JUDGMENT

Date: 05-05-2016

The petitioner seeks quashing of order dated 24.3.2014, issued under the signature of The Principal Secretary, Rural Works Department, Government of Bihar, Patna (Respondent no.2) whereby the departmental proceeding has been directed to be initiated against him.

2. Respondents have filed counter affidavit stating that the Government has decided to initiate departmental proceedings against the petitioner for the charge of amassing assets disproportionate to known source of income. Furthermore a criminal case under sections 13(2)(1)(E) of the Prevention of Corruption Act, being Vigilance case no. 50 of 2013 has also been instituted.

3. The petitioner submits that he is being virtually proceeded for the same offence, both in the criminal case and the departmental proceeding. The issue is whether the departmental proceeding should be stayed pending criminal prosecution.

4. The matter recently came up for consideration in case of Stanzen Toyotetsu India Private Limited Vs. Girish V. and others, reported in (2014)3 Supreme Court Cases 636. After considering the catena of judgments on the issue, the Hon'ble Apex Court observed that there is no legal bar to continuance of disciplinary proceedings and criminal trial, simultaneously based on identical charge. It has been further observed that while seriousness of charge levelled against an employee is an important consideration, as continuance of disciplinary proceedings is likely to prejudice ones defence in criminal proceeding. However, same by itself is not sufficient to stay the departmental proceeding, unless the case also involves complicated questions of law and fact. Challenge is founded primarily on the ground that the disciplinary proceeding cannot be commenced for the same offence, which is also being tried in a criminal court, particularly when the same is gross and involves complicated question of law and facts.

5. However, as observed by the Hon'ble Court, even in such eventuality the department proceeding cannot be suspended or

delayed indefinitely.

6. In this view of the matter, this court would only stay the departmental proceeding pending the criminal prosecution for a limited period of nine months. In case, the vigilance case is not disposed of within the aforesaid period, respondents may consider continuing departmental proceeding.

7. The writ petition stands disposed of with the aforesaid observations and directions.

(Samarendra Pratap Singh, J)

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