

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.6774 of 2016

Shiv Shankar Prasad, Son of Late Dwarika Prasad, Resident of Village- Gulli Bhatta Sahibganj, P.S.- Sahibganj, P.S- Sahibganj, District- Sahibganj (Jharkhand).

.... Petitioner/s

Versus

1. The State of Bihar through Principal Secretary General Administration.
2. Principal Secretary, General Administration, Govt. of Bihar, Patna.
3. Joint Secretary General Administration, Govt. of Bihar, Patna.
4. District Magistrate, Nalanda at Bihar Sharif.
5. District Magistrate, Patna.
6. Sub-divisional Officer, Rajgir, Nalanda.
7. The Public Information Officer, General Administration Department, Patna.

.... Respondents

Appearance :

For the Petitioner : Mr.Rajendra Prasad, Sr. Advocate,
Mr. R.Kumar,Binay Kumar Singh, Advocate
For the Respondents : Mr.PN Sharma, AC to AG

CORAM: HONOURABLE MR. JUSTICE SAMARENDRA PRATAP SINGH
ORAL JUDGMENT

Date: 04-07-2016

The petitioner, who held the post of Executive officer of Nagar Panchayat, Rajgir in 2015, was suspended vide order dated 18.2.2016 by General Administration Department under Rule 9(1) (C) of the Bihar Government Servant (Classification, Control and Appeal) Rules, 2005 (herein after referred to as the 'Rules, 2005) as well as judgment of the Full bench of this Court in case of State of Bihar and others Vs. Gyan Kumar Ram and others, reported in 2009(4) PLJR 272.

Learned counsel for the State submits that the charges against the petitioner was grave and necessary steps have been taken in filing of the charge sheet in the criminal case.

I find that the order of suspension is not under 9(1) (C) of the Rules, 2005 but under section 9(7) of the Rules, 2005 which cannot survive beyond a period of 90 days in absence of framing of charge memo.

In view of such settled position of law, the suspension order dated 18.2.2016, passed by the General Administration Department, Government of Bihar, Patna, is set aside. However, respondents are at liberty to pass fresh order in accordance with law.

The writ petition is thus allowed.

(Samarendra Pratap Singh, J)

Shashi.

AFR/NAFR	
CAV DATE	NA
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