

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.11751 of 2014

Onkar Nath Singh, Son of Late Ramanand Singh, resident of village- Akauna, P.S-
Punpun, District- Patna.

.... Petitioner/s

Versus

1. The State of Bihar
2. Secretary, Department of Home (Police), Government of Bihar, Patna.
3. Director General of Police, Bihar, Patna.
4. Zonal Inspector General of Police, Muzaffarpur.
5. Deputy Inspector General of Police, West Champaran, Bettiah.
6. Superintendent of Police, East Champaran, Motihari.
7. Mr. Umeshwar Choudhary, Deputy Superintendent of Police, Sikarahana- Cum-
Enquiring Officer.

.... Respondents

Appearance :

For the Petitioner/s : Mr. Ajay Kumar Thakur, Advocate
: Mr. Nilesh Kumar, Advocate
For the Respondent/s : Mr. Suresh Kumar, AC to GP-5

CORAM: HONOURABLE MR. JUSTICE SAMARENDRA PRATAP SINGH

ORAL JUDGMENT

Date: 10-03-2016

Heard learned counsel for the petitioner and the
learned counsel for the State.

2. The petitioner seeks setting aside Memo no. 535,
dated 05.02.2014 issued under the signature of Superintendent of
Police, East Champaran, Motihari by which he has ordered initiation
of departmental proceeding, bearing no. 02 of 2014, against the
petitioner.

3. The petitioner has assailed the impugned notice on
the ground that for a similar offence, Vigilance case, bearing
Vigilance P.S. case no. 82 of 2013, under Section 7/13(2) read with



Section 13 (1) (d) of the Prevention of Corruption Act, 1988 has been lodged. It appears from the pleadings that the charge for which the petitioner is being departmentally proceeded is substantially similar to the criminal offence, for which a Vigilance case is also continuing and in which charge-sheet has already been filed. He next submits that if the Departmental proceeding and the proceeding in criminal case are based on common sets of facts and charge is of a grave nature involving complicating questions of facts and law, then in that case, it is desirable to stay the departmental proceeding for a reasonable period of time, so that the criminal trial is concluded.

4. The issue whether a departmental proceeding should be stayed pending criminal proceeding is not a mere res-integra and the Hon^{ble} Apex Court has considered in catena of judgments including in the cases of **State of Rajasthan Vs. B.K. Meena and others** [AIR 1997 SC 13], **Capt. M. Paul Anthony Vs. Bharat Gold Mines LTD. and another** [(1999) 3 SCC 679], **Stanzen Toyotetsu India Private Limited Vs. Girish V. and others** [(2014) 3 SCC 636 = AIR 2014 SC 989] as also on some of the judgments of our own High Court including that in the cases of **Kapil Muni Rai Vs. The State of Bihar & others** [2011(1) PLJR 123] and **Bihar State Electricity Board & others Vs. Ajay Kumar Prasad** [2014 (1) PLJR 338].

5. The main plea of the petitioner is that if the departmental proceeding is not stayed, the disclosure of defence in such proceeding may prejudice his criminal case.

6. It would appear from the pronouncement of the Hon'ble Apex Court that there cannot be straight jacket formula for staying the departmental proceeding during the pendency of the criminal case and all would largely depend upon facts of their respective cases. If in a criminal case pending against the delinquent, complicated question of facts and law are involved, and disclosure of defence in the departmental proceeding will adversely affect his defence in the criminal trial, then in such cases, departmental proceeding may be kept in abeyance for a reasonable period of time, allowing the criminal trial to proceed and conclude on priority basis.

7. In the instant case, I find that charge-sheet has already filed in Vigilance case in February, 2014 itself, about two years back. The charge is grave and involves complicated questions of fact and law. In the circumstances, I am inclined to stay the departmental proceeding for a period of 10 months. The trial court is also directed to expedite the hearing of the criminal case. In case, the criminal case does not conclude within a period of 10 months, the respondents may consider the feasibility of continuing with the departmental proceeding, pending criminal case.

8. This application is thus allowed to the extent mentioned above.

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(Samarendra Pratap Singh, J.)