

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.3276 of 2016

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Rabi Kant Tiwary, Son of Late Govind Tiwary, Resident of Mohalla- Behind
Punam Gas Godown, Ambedkar Path, Bailey Road, District- Patna

.... Petitioner

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna
2. The Principal Secretary, General Administration Department, Government of Bihar, Patna
3. The Dy. Secretary, General Administration, Government of Bihar, Patna
4. The Vigilance Department, Government of Bihar, Patna

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Yugal Kishore, Sr. Advocate
Mr. Virendra Prasad, Advocate

For the Respondent/s : Mr. Anjani Kumar, AAG-6
Mr. AC to AAG-6

For the Vigilance : Mr. Ramakant Sharma, Sr. Advocate
Mr. Santosh Kr. Pandey, Advocate

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CORAM: HONOURABLE MR. JUSTICE SAMARENDRA PRATAP SINGH

ORAL JUDGMENT

Date: 12-05-2016

Heard learned counsel for the petitioner and the respondents.

2. The petitioner seeks quashing of the Memo no. 183, dated 06.01.2016, issued by respondent no.3, by which he has been put under suspension without even issuance of show-cause notice.

3. The petitioner submits that continuance of suspension beyond three months without filing of charge-sheet is not sustainable in law. In support of his submission, the petitioner has relied upon a decision in case of **Ajay Kumar Choudhary Vs. Union**

of India & Another, reported in **(2015) 7 SCC 291**.

4. Learned counsel, as such, seeks parity and prays for quashing of the order of suspension, as it has lingered for more than three months. He submits that even if charge-sheet is submitted, viable reasons should be recorded for extending the period of suspension.

5. There cannot be any dispute to the proposition of law, laid down by the Hon'ble Apex Court. In the aforesaid case, the order of suspension was extended time and again, without filing of charge-sheet, and as such the Hon'ble Apex Court quashed the order of suspension. However, the factual matrix of the case is different here. In this case, the petitioner has been suspended under Rule 9 (1) (c), which vests powers in the appointing authority to suspend a delinquent pending continuance of a criminal case. Rule 9 (1) (c) is quoted herein below for easy reference:

“9. (1) © a case against the government servant in respect of any criminal offence is under investigation, inquiry or trial and the competent authority is satisfied that it is expedient to suspend the Government Servant in public interest.”

6. Thus, I find that the order of suspension has backing of statutory provisions, as such the judgment relied in case of

Ajay Kumar Choudhary (Supra) would not be of much assistance to the petitioner.

7. In the result, there is no merit in the application, it is, accordingly dismissed. However, if the disposal of criminal case is delayed, it would be open for the petitioner to approach this Court.

(Samarendra Pratap Singh, J.)

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