

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7140 of 2016

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Prahlad Kumar Singh, son of late Bindeshwari Singh, resident of village- Fatehli,
PS- Sadar, District- Nalanda.

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Health,
Government of Bihar, Patna.
2. The Director-in-Chief, Health Services, Bihar, Patna.
3. The Civil surgeon-cum- Chief Medical Officer, Patna.
4. The Deputy Superintendent, Sub Divisional Hospital, Danapur
5. The Executive Director-cum-Special Secretary, State Health Society Bihar,
Patna.

.... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Banwari Sharma, Advocate Mr. Shiv Kumar, Advocate Mr. Sahjanand Sharma, Advocate
For the State Health Society:		Mr. K. K. Sinha, Advocate
For the State	:	None

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN
ORAL JUDGMENT
Date: 02-12-2016

Heard Mr. Banwari Sharma, learned counsel appearing
for the petitioner. None appears on behalf of the State. Mr. K. K. Sinha
appears on behalf of the State Health Society.

The petitioner is aggrieved by the order bearing Memo
No.1159 dated 09.02.2016, issued by the Civil Surgeon-cum-Chief
Medical Officer, Patna, whereby the petitioner has been put under
suspension, copy of which is impugned at Anneuxre-11. The petitioner
is also aggrieved by the order bearing Memo No.1161 dated
09.02.2016, by which the headquarter of the petitioner has been fixed
at the Head Office of the Civil Surgeon-cum-Chief Medical Officer,



Bhojpur, which is impugned at Annexure-12.

Mr. Sharma, learned counsel appearing for the petitioner submits that the suspension order is unsustainable in view of the provisions underlying in Rule 9(7) of the Bihar Government Servants (Classification, Control & Appeal) Rules, 2005, (hereinafter to be referred as “Rules”) which mandates framing of the charge-sheet within three months from the date of issuance of suspension order failing which the order of suspension would stand revoked. Mr. Sharma in reference to the Full Bench judgment of the issue rendered in *The State of Bihar & Ors. Vs. Gyan Kumar Ram* since reported in **2009(4) PLJR 272** with particular reference to paragraph 19 has submitted that the legal position is explained. He submits that, admittedly, there is no renewal of the suspension order until the filing of the writ petition or even thereafter. He submits that the Full Bench has held that where no charge memo is served within three months of order of suspension and the delinquent, either moves the authority concerned for revocation of suspension or moves the Court before such eventuality takes place, the order of suspension would stand revoked. He submits that there is no renewal of the suspension order either before the writ petition was filed or after the petitioner has moved this Court and that the charge-sheet in the proceedings, has been issued subsequently on 22.11.2016, as admitted in the Counter



Affidavit of the Respondent No.3 filed on 28.11.2016. He thus submits that in view of the position settled by the Full Bench, the suspension order has become unsustainable and is hit by the provisions underlying Rule 9(7) of ‘the Rules’.

I have heard learned counsel for the parties and perused the record.

The issue raised by Mr. Sharma is supported by the materials on record and there is nothing to contest the submission, which is based on the statutory provision and the judgment of the Full Bench.

In the circumstances so discussed, the suspension order issued vide Memo No.1159 dated 09.02.2016 by the Civil Surgeon-cum-Chief Medical Officer, Patna, impugned at Annexure-11 together with the Memo No.1161 dated 09.02.2016 issued by the Civil Surgeon-cum-Chief Medical Officer, Patna, impugned at Annexure-12, cannot be upheld and are accordingly, quashed.

The writ application is allowed.

(Jyoti Saran, J)

JA/-

AFR/NAFR	AFR
CAV DATE	N/A
Uploading Date	08.12.2016
Transmission Date	

