

**IN THE HIGH COURT OF JUDICATURE AT PATNA**

**Civil Writ Jurisdiction Case No.7991 of 2016**

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Sharat Chandra Jha, aged about-50 yrs., S/o Late Bahadur Jha, R/o- New Punjabi Colony, P.O.- Anishabad, P.S.- Gardanibagh, Distt.- Patna-2

.... .... Petitioner/s

Versus

1. The State of Bihar
2. Agriculture Production Commissioner, Bihar, Patna.
3. Director, Agriculture, Bihar, Patna.

.... .... Respondent/s

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**Appearance :**

For the Petitioner/s : Mr. Mukesh Kumar, Advocate

For the Respondent/s : Mr. R. K. Roy, GP 18

Mr. Pradeep Kumar, AC to GP 18

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**CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN**

**ORAL JUDGMENT**

**Date: 02-12-2016**

Heard Mr. Mukesh Kumar, learned counsel appearing for the petitioner and Mr. Pradeep Kumar, AC to GP 18, appearing for the State.

The petitioner is aggrieved by the order of suspension passed by the Director, Agriculture, Bihar, Patna, issued vide Memo No.1686 dated 30.03.2015, impugned at Annexure-1.

Learned counsel for the petitioner with reference to the representation of the petitioner dated 14.07.2015 submits that initially the order of suspension was questioned by the petitioner on merit seeking reinstatement, which did not bear any result. He further submits that on gathering knowledge about the judgment of the Full Bench in the case of *The State of Bihar & Ors. Vs. Gyan Kumar Ram* since



reported in **2009(4) PLJR 272**, a second representation was filed by the petitioner on 30.10.2015 before the Director, Agriculture, Govt. of Bihar, Patna, seeking reinstatement in view of the law laid down, yet it did not bear any result. He further submits that the statutory period of three months as mandated under Rule 9(7) of the Bihar Government Servants (Classification, Control & Appeal) Rules, 2005, (hereinafter to be referred as “Rules”) got exhausted in June, 2016, but no order of renewal was passed by the respondents. He submits that it is only after the petitioner claimed reinstatement on 30.10.2015, that a charge-sheet in the form of “ka” has been served on 15.12.2015 vide Annexure-A initiating disciplinary proceeding.

The short argument advanced by Mr. Mukesh Kumar, learned counsel appearing for the petitioner, is that as per mandate of the Rule 9 (7) of ‘the Rules’ and the legal position settled by the Full Bench in the case of **Gyan Kumar Ram** (supra), the representation claiming reinstatement filed on 30.10.2015 required consideration and the respondents ought to have revoked the suspension of the petitioner.

Mr. Pradeep Kumar, learned counsel appearing for the State while not disputing the factual position submits that charge-sheet has been filed on 15.12.2015, and even the enquiry report has since been submitted.

I have heard the learned counsel for the parties and perused



the record.

Rule 9 (7) of the Rules provides for the consequences arising due to non-framing of charge-sheet within three months from the date of issuance of suspension order. Although the provision stipulates that the order of suspension would stand revoked on failure of the disciplinary authority to frame charge-sheet within three months from the date of suspension order, but this issue has been explained in the judgment of the Full Bench in the case of **Gyan Kumar Ram** (supra) and in paragraph 19 and 20 the judgment, the Full Bench has held that it is only in case the delinquent either moves the Court or approaches the disciplinary authority with an appropriate application for revocation before any order of renewal of suspension is passed by the disciplinary authority, that the suspension order shall have to be revoked.

The facts are not in dispute and it is not in contest that there is no renewal of the suspension order in the present case. Annexure-3 also confirms that on expiry of the three months' period, the petitioner approached the disciplinary authority for revocation of suspension with reference to the law laid down by the Full Bench referred to above. It is again not in dispute that charge-sheet was framed on 15.12.2015.

In the undisputed circumstances, discussed above, and in view of the law laid down by the Full Bench in the case of **Gyan Kumar**



**Ram** (supra), the order of suspension passed by the Director, Agriculture, Bihar, Patna, issued vide Memo No.1686 dated 30.03.2015, impugned at Annexure-1, cannot be upheld and is, accordingly, quashed and set aside.

The writ petition is, accordingly, allowed. The consequences shall follow.

**(Jyoti Saran, J)**

JA/-

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