

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13820 of 2014

=====

1. Akhileshwar Prasad Srivastava S/o Sri Krishna Chandra Prasad Srivastava, R/o Vill- Khora Parsa, P.S.- Bagha, Distt. West Champaran (Bettiah)

.... Petitioner/s

Versus

1. The State of Bihar
 2. Principal Secretary, Agriculture Department, Bihar, Patna
 3. Director Agriculture, Bihar, Patna

.... Respondent/s

=====

Appearance :

For the Petitioner/s : Mr. Vipin Kumar

For the Respondent/s : Mr. Nirbhay K.Singh

=====

CORAM: HONOURABLE MR. JUSTICE SAMARENDRA PRATAP SINGH
ORAL ORDER

4 31-03-2016 The petitioner seeks quashing of the order, dated 7.3.2014 issued by the Director Agriculture, Bihar, Patna whereby he has been put under suspension under Rule 9(1)(G) of the Bihar Government Servants (Classification, Control and Appeal) Rules, 2005. The petitioner also seeks quashing of order, dated 3.7.2014 passed by the Director, Agriculture, Bihar, Patna by which the respondents recalled earlier order exonerating him in the departmental proceeding.

The petitioner was initially appointed as Village Level Worker. He was subsequently promoted to the post of Block Agriculture Officer. In pursuance of the order, dated 9.12.2004, he was posted as Inspector, Weight and Measure at Biharsharif. He



was caught red handed taking bribe of Rs.1400/- and taken into custody. A criminal case as well as departmental proceeding was initiated against him. He was put under suspension on 21.9.2006. After release from custody, the petitioner's suspension was revoked on 8.3.2007 w.e.f. 26.12.2006. He was again put under suspension in contemplation of departmental proceeding vide memo, dated 12.2.2008. However, the petitioner was ultimately exonerated in the departmental proceeding and was released from suspension on 24.5.2010.

In view of the seriousness of charge, the Director, Agriculture, Bihar, Patna vide order, dated 7.3.2014 decided to suspend the petitioner under Rule 9(1)(G) of Bihar CCA Rules, 2005 in public interest. The Director, Agriculture, Bihar, Patna vide order, dated 3.7.2014 reviewed the earlier order of exoneration of the petitioner passed in the year 2010 and decided to proceed further in the matter.

A disciplinary proceeding is a quasi judicial proceeding having trapping of a judicial proceeding. The petitioner being a government servant, his proceeding is regulated under Bihar Government Servants (Classification, Control and Appeal) Rules, 2005. The rule does not empower the disciplinary authority to review the concluded proceeded after lapse of six months.

In this view of the matter, the order dated 3.7.2014 of the disciplinary authority directing reopening of the proceeding which had already concluded, is bad in law and is accordingly quashed.

Now I would consider the validity of the order dated 7.3.2014. The petitioner has been again suspended in view of Rule ((1)(G) of Bihar CCA Rules, 2005. Rule 9(1)(G) of Bihar CCA Rules confers power on the disciplinary authority to suspend a government servant which is facing criminal investigation or trial in public interest.

It appears that the petitioner was earlier suspended on 21.5.2006 as he was taken into custody. However, as he was exonerated in the departmental proceeding, the suspension was revoked on 12.2.2008. After six years, the department has suspended him again in public interest under Rule 9(1)(G) of the Bihar CCA Rules in view of the pendency of the criminal trial.

One is at a loss that all of a sudden after six years, the disciplinary authority took a view to suspend him in view of the gravity of charge though the charges existed since 2008 and in fact the petitioner was put under suspension, which order was revoked.

In view of above, I do not find that there existed any fresh ground for suspending the petitioner in terms of Rule 9(1)(G) of the Bihar CCA Rules.

In the result, both the impugned notifications dated 7.3.2014 and 3.7.2014 are quashed. However, in the facts and circumstances of the case, the Vigilance case instituted against the petitioner is directed to be expedited so as to conclude the same not beyond the period of 1 ½ years from the date of receipt/production of a copy of this order.

Let a copy of this order be forwarded to the Court concerned trying the vigilance case against the petitioner.

(Samarendra Pratap Singh, J)

KHAN/-

U			
---	--	--	--