

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1050 of 2016

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Ashok Kumar, S/o Late Uttam Singh, R/o Village- Bhalianhi, P.S.- Nokha, District- Rohtas.

.... Petitioner/s

Versus

1. The State of Bihar, through Principal Secretary, Urban Development, Govt. of Bihar, Patna.
2. The Chairman, Dehri, Dalmiyanagar, Municipality, Dehri at P.O.- Dehri-on-Sone, District- Rohtas (Sasaram)
3. The Executive Officer, Dehri, Dalmiya Nagar, Municipality at Dehri-on-Sone, District- Rohtas.

.... Respondent/s

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Appearance:

For the Petitioner/s : Mr. Dinbandhu Singh, Advocate

Mr. Santosh Kumar, Advocate

For the State : Mr. Saroj Kumar Sharma, Advocate

For Nagar Parishad : Mr. Avinash Kumar, Advocate

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

ORAL JUDGMENT

Date: 03-10-2016

Heard Mr. Dinbandhu Singh, learned counsel for the petitioner and Mr. Avinash Kumar, learned counsel appearing for the Municipality as well as counsel for the State.

The petitioner is aggrieved by order dated 17.1.2013 bearing Memo. No. 68 of the Executive Officer, Nagar Parishad, Dehri in the district of Rohtas whereby the petitioner has been suspended. The relief claimed is relying upon Rule 9(7) of the Bihar Government Servants (Classification, Control and Appeal) Rules, 2005 which requires a charge sheet to be filed within three months, failing which it may lead to revocation of suspension order.

Mr. Avinash Kumar has referred to a Full Bench decision of this Court rendered in the case of **State of Bihar vs. Gyan Kumar Ram** since reported in **2009(9) PLJR 272** and with particular reference to

paragraph-20 of the Full Bench judgment he submits such relief is only available to a delinquent where on expiry of 90 days and before filing of the charge sheet the delinquent files an application for revocation. According to learned counsel since the petitioner has not filed any such application, the relief claimed is not admissible. He submits that barely four days after passing of the suspension order, a criminal case has also been instituted against the petitioner arising from Dehri Town P.S. Case No. 44 of 2013. He thus submits that whatever may be the confusion or the grey area in the order of suspension, the decks stands cleared by the institution of the criminal case followed by the charge sheet in the departmental proceedings.

Having heard learned counsel for the parties and considering the submissions advanced and taking into consideration the fact that a criminal case has been instituted against the petitioner which is followed by a charge sheet as well the fact that there is nothing on record to show that the petitioner filed any application for revocation of his suspension all that this Court is persuaded for the present is, to direct the disciplinary authority to ensure the conclusion of the disciplinary proceedings within a period of three months from today and until and unless the delay further caused is attributed to the petitioner, he should consider the prayer of the petitioner for revocation of the suspension considering that the matter is lingering for the last three years.

(Jyoti Saran, J)

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