

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.5349 of 2016**

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Vikrama Prasad, son of Late Amardeo, Resident of Village- Chhatwan, P.O. Ratsar, P.S. Garwar, District-Ballia (U.P.), presently posted as Executive Engineer, Building Construction Department, Building Division, Gaya (Under Suspension).

.... .... Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. The Principal Secretary, Building Construction Department, Government of Bihar, Patna.
3. The Joint Secretary, Building Construction Department, Government of Bihar, Patna.
4. The Deputy Secretary, Building Construction Department, Government of Bihar, Patna.
5. The Engineer-in-Chief-cum-Additional Secretary-cum-Special Secretary, Building Construction Department, Government of Bihar, Patna.
6. The District Magistrate, Gaya, District- Gaya.
7. The Deputy Development Commissioner, Gaya, District- Gaya.

.... .... Respondent/s

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**Appearance:**

For the Petitioner/s : Mr. S.B.K. Manglam  
Ms. Anita Kumari

For the State : Mr. Rakesh Narayan Singh, AC to AAG-15

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

**ORAL JUDGMENT**

**Date: 17-09-2016**

Heard Mr. S.B.K. Manglam, learned counsel for the petitioner and Mr. Rakesh Narayan Singh, A.C. to A.A.G.-15.

With the consent of the parties the matter is taken up with a view to its final disposal at the stage of admission itself.

The petitioner is aggrieved by the order bearing Memo No.2426 dated 4.3.2016 impugned at Annexure-5 whereby the petitioner has been put on suspension for laches and negligence in the construction of the barricading and dropgate, during the visit of hon'ble the Prime Minister to Bodhgaya.

Mr. Manglam, learned counsel for the petitioner has



questioned the suspension order on grounds that it is not in satisfaction of the requisites found under rule 9(1) of the Bihar Government Services (Classification, Control and Appeal) Rules, 2005 (hereinafter referred to as 'the Rules') and secondly that a period of three months having lapsed with no service of chargesheet, the suspension order would stand invalidated in view of the provisions underlying rule 9(7) of 'the Rules'.

Mr. Singh, learned State Counsel refers to a notification bearing Memo No.5516 dated 13.6.2016 to submit that the chargesheet has been served on the petitioner but it is the argument of Mr. Manglam that even if that be so, the service is beyond the period of three months.

I have heard learned counsel for the parties and I have perused the records and I am of the opinion that the writ petition is fit to be allowed on each of the two counts raised by learned counsel. Rule 9(1) of 'the Rules' stipulates three condition in which an order of suspension can be passed and while clause-(a) enables the disciplinary authority concerned to suspend a delinquent in contemplation of a departmental proceeding or where it is pending; clause (b) vests him with such jurisdiction where the security interest of the State requires as such and clause-(c) relates to circumstances where the Government servant concerned is involved in a criminal offence. Certainly the case in hand would not fall either in clause (b) or (c). It is thus to be seen whether the order of

suspension would satisfy clause (a) of Rule 9(1) of ‘the Rules’. The order of suspension impugned at Annexure-5 simply proceeds to suspend the petitioner as a measure of penalty for showing negligence and laches in the construction of barricading and dropgate during the visit of hon’ble the Prime Minister to Bodhgaya on 5.9.2015. The order neither contemplates a disciplinary proceeding nor there was any disciplinary proceeding was pending on the said date.

Apparently the order of suspension does not satisfy any of the pre-requisites for such exercise as provided under rule 9(1) of ‘the Rules’. The order is also not sustainable and stands revoked in view of the stipulation present in rule 9(7) of ‘the Rules’ for even if the charge-sheet is said to have been issued on 13.3.2016, it is undisputedly served beyond the stipulated period.

For the reasons and discussion aforementioned the order of suspension bearing Memo No.2426 dated 4.3.2016 passed by the State Government impugned at Annexure-5 cannot be upheld and is accordingly set aside.

The writ petition is allowed.

**(Jyoti Saran, J)**

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