

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1119 of 2017

IN

Civil Writ Jurisdiction Case No. 18517 of 2016

- =====
1. The State Of Bihar through the Principal Secretary, Rural Works Department, Government of Bihar, Patna
 2. The Principal Secretary, Rural Works Department, Government of Bihar, Patna
 3. The Additional Secretary, Rural Works Department, Government of Bihar, Patna

.... Appellant/s

Versus

Satyendra Prasad Sinha, son of Late Rameshwar Singh, resident of Village-Arai, Benipur, P.O.-Peer Barahaua, P.S.-Daniyawar, District-Patna, presently Executive Engineer (under suspension), Rural Works Department, Bihar

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Ashok Kumar Gupta

For the Respondent/s : Mr. Binod Kumar, Adv

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CORAM: HONOURABLE THE CHIEF JUSTICE

And

HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date: 07-09-2017

Interlocutory Application No. 5825 of 2017

The Interlocutory Application has been filed for condonation of delay in filing of appeal.

The delay in filing of this appeal is condoned.

Accordingly, Interlocutory Application No.5825 of 2017 stands allowed and disposed of.

This appeal by the State Government seeks exception to an order dated 24.05.2017 passed by the Writ Court in Civil Writ Jurisdiction Case No. 18517 of 2016.



Having heard learned counsel for the parties, we find that the respondent employee was suspended vide Memo No. 600 dated 18.02.2014 due to his involvement in a vigilance case bearing No. 36 of 2013 for the offences under Section 13(2) read with Section 13(1)(e) of the Prevention of Corruption Act, 1988. The suspension was ordered under Rule 9(1)(c) of the Bihar Government Servant(Classification, Control and Appeal) Rules, 2005. However, based on a Circular issued by the Government of Bihar in the Department of Personnel and Administrative Reforms dated 03.07.1986 laid down certain guidelines and rules in the matter of suspension and after taking note of the law laid down by a Bench of this Court in the case of Ishwar Dayal versus State of Bihar in C.W.J.C. No. 5477 of 2016, learned Writ Court found that till the date, except for the fact that the investigation was continuing, cognizance in the criminal case was not taken by a Court of competent jurisdiction and finding that in such case prolonged suspension is not permissible, the suspension has been directed to be revoked and liberty granted to the Department to proceed afresh in accordance with law, in case the criminal case is instituted , cognizance is taken and the petitioner is being prosecuted. That apart, liberty to proceed departmentally is also available to the Department.

That being so, we see no reason to make any



indulgence into the matter as the order passed by the learned Writ Court is only to direct for revocation of the suspension in view of the Circular itself of the State Government. Granting liberty to the petitioner to proceed, in accordance with law, we see no reason to interfere into the matte.

Accordingly, the appeal stands disposed of with the aforesaid liberty to the State Government.

(Rajendra Menon, CJ)

(Anil Kumar Upadhyay, J)

Shageer/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	11/09/2017
Transmission Date	NA

