

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.1002 of 2017

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1. Om Prakash Manjhi son of Late Lakshmi Manjhi Resident of M.I.G. - 208, Hanuman Nagar, P.S. Patrakar Nagar, District - Patna, presently posted as Superintending Engineer, Rural Works Department, Work Circle, Siwan (under suspension).

.... Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. The Principal Secretary, Rural Works Department, Government of Bihar, Patna.
3. The Deputy Secretary, Rural Works Department, Government of Bihar, Patna.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. S.B.K.Mangalam, Adv.
Mr. Anita Kumari, Adv.

For the Respondent/s : Mr. Pushkar Narain Shahi-AAG6

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

ORAL JUDGMENT

Date: 11-09-2017

Heard learned counsel for the parties.

The petitioner having filed C.W.J.C. No. 714 of 2017 to question the suspension order chosen to withdraw the same on 5.9.2017 with liberty to move again if no progress is shown in the criminal case. By way of this writ petition the petitioner while questioning the same very suspension order, now attempts to question the part of the order whereby a decision was taken to also initiate departmental proceeding.

The decision to initiate a departmental proceeding is an intrinsic part of a suspension order as per the statutory prescription present under Rule 9(1)(a) of Bihar Government Servant (Classification,



Control and Appeal) Rules, 2005 (hereinafter referred to as ‘the Rules’) and thus there cannot be a separate cause of action to question the said decision. The option was much available to the petitioner when he chose to question the suspension order in the writ petition bearing C.W.J.C.No.714 of 2017 and not having chosen at that stage to question the initiation of the disciplinary proceeding which was much a part of their suspension order, he cannot be permitted to abuse the process of the Court by filing a second writ petition.

Mr. Mangalam learned counsel for the petitioner attempts to question the initiation of disciplinary proceedings on grounds that on the same foundation a criminal proceeding has already been initiated. In my opinion even if the two proceedings are founded on same charges but that would not be sufficient to interfere with either of them because the consideration as well as the consequences in the two proceedings is entirely different.

For the reasons so discussed, the writ petition is dismissed.

Bibhash/-

AFR/NAFR	
CAV DATE	NA
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(Jyoti Saran, J)

