

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.10658 of 2016

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Baleshwar Narayan Singh Son of Sri Shambhu Nath Singh Resident of Supriya Cinema Road Kamalanath Nagar, Bettiah, P.S. Bettiah, District- West Champaran at present working as Executive Magistrate, Phulparas, Madhubani.

.... Petitioner

Versus

1. The State of Bihar
2. The Principal Secretary, Rural Development, Govt. of Bihar, Old Secretariat, Patna.
3. The Divisional Commissioner, Tirhut Division, Muzaffarpur.
4. The District Magistrate, East Champaran, Motihari.

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Pratap Sharma, Adv.

For the Respondent/s : Mr. Sushil Kumar, GP-22

Mr. Uday Prasad, AC to GP-22

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

ORAL JUDGMENT

Date: 04-05-2017

Heard Mr. Pratap Sharma, learned counsel appearing for the petitioner and Mr. Sushil Kumar, learned GP-22, for the State.

The petitioner prays for quashing of the order bearing Memo No. 1925 dated 3.5.2016, whereby the prayer of the petitioner for grant of earned leave for the period 19.9.2013 to 16.2.2014 has been rejected by the Divisional Commissioner, Tirhut Division, Muzaffarpur, inter alia, on grounds that there was a police case instituted against the petitioner and that the application for grant of such leave was filed only on 30.12.2014. The Commissioner on the ground of unauthorized absence has rejected the prayer of the petitioner.



Mr. Pratap Sharma, learned counsel for the petitioner, in contesting the position submits that the order is not sustainable on either of the grounds because in so far as police case is concerned, no charge sheet is submitted and in so far as the departmental proceeding is concerned, although the charge memo was drawn by the Commissioner, Tirhut Division, Muzaffarpur and recommended for further action before the Rural Development Department, Bihar, Patna vide Annexure 11, but was not acted upon.

It is in consideration of such submission advanced by Mr. Sharma, which stands noted in the order of this Court passed on 30.3.2017, that the learned State Counsel was required to clarify as to whether any formal proceeding has been drawn against the petitioner in furtherance of Annexure 11 to the writ petition. It is thereafter that a supplementary counter affidavit has been filed and enclosing the reply filed by the petitioner to the charge sheet present at Annexure 11, a copy of which is enclosed at Annexure 'D' to the supplementary counter affidavit filed on 20.4.2017, it is submitted that the final orders are awaited.

According to Mr. Sharma, it is the Principal Secretary who is to take a final decision on the charge and the explanation submitted by the petitioner.

Having heard learned counsel for the parties and considering



the stage at which the relief claimed by the petitioner for sanction of earned leave for the period 19.9.2013 to 16.2.2014 remains pending for adjudication in the proceeding so initiated and in which direction the petitioner has also filed his reply vide Annexure 'D', I deem it proper to dispose of the writ petition with the direction to the Principal Secretary or the competent authority concerned, to take a final decision on the issue in accordance with law within a maximum period of three months from the date of receipt/ production of a copy of this order.

The writ petition is disposed of accordingly.

(Jyoti Saran, J)

Surendra/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	20.05.2017
Transmission Date	NA

