

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.18231 of 2016

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Binay Kumar, Son of Late Ramdeo Singh, Resident of village & P.O. Barhad, P.S. Hathauri, District- Muzaffarpur.

.... Petitioner/s

Versus

1. The State of Bihar.
2. The Principal Secretary, Education Department, Government of Bihar, Patna.
3. The Director (Administration) cum Additional Secretary, Education Department, Bihar, Patna.
4. The District Education Officer, Samastipur.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Ram Kishore Singh, Adv.

For the Respondent/s : None

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

ORAL JUDGMENT

Date: 01-09-2017

Heard Mr. Ram Kishore Singh, learned counsel appearing for the petitioner. None appears on behalf of the State.

The petitioner is aggrieved by the order of suspension bearing Memo No.737 dated 22.7.2016 impugned at Annexure-1 to the writ petition.

Amongst the other issues raised by the petitioner to question the suspension order, it has been specifically pleaded by him in paragraph 16 of the writ petition that the suspension order has been rendered invalid in view of the provisions underlying rule 9(7) of the Bihar Government Servants (Classification, Control and Appeal) Rules, 2005 (hereinafter referred to as 'the Disciplinary Rules') inasmuch as no charge memo has been framed within the stipulated period of 90 days prescribed thereunder.

Mr. Singh, learned counsel appearing for the petitioner in



reference to the Full Bench judgment of this Court reported in **2009(4) PLJR 272 (State of Bihar Vs. Gyan Kumar Ram)** submits that on the expiry of 90 days the petitioner represented before the authorities for revocation of suspension vide his representation dated 25.10.2016 placed on record at Annexure-9 but no step was taken leading to the present writ petition.

Although a counter affidavit is on record but the same does not answer the issue on record nor encloses the copy of the charge memo.

Having heard learned counsel for the petitioner and in view of the legal position settled by this Court in the Case of **Gyan Kumar Ram** (supra) and considering that no charge memo was framed by the respondents within the stipulated period the order of suspension has been rendered invalid in view of the provisions underlying rule 9(7) of ‘the Disciplinary Rules’ and accordingly the suspension order bearing Memo No.737 dated 22.7.2016 impugned at Annexure-1 is quashed and set aside. The petitioner is reinstated on his post.

The writ petition is allowed with consequential reliefs.

(Jyoti Saran, J)

SKPathak/-

AFR/NAFR	NAFR
CAV DATE	NA
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