

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.5064 of 2016

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Shyam Babu Singh, Son of Late Singho Singh, resident of Mohalla- Sri Ram Nagar Colony, P.S. Rupashpur, District- Patna.

.... Petitioner/s

Versus

1. The State of Bihar .
2. The Additional Director General of Police, Special Branch, Bihar, Patna.
3. The Inspector General of Police, Special Branch, Bihar, Patna.
4. The Superintendent of Police, (A), Special Branch, Bihar, Patna.
5. The Sub-Divisional Police Officer-cum-Conducting Officer, Special Branch, Patna Town.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Viveka Nand Singh, Advocate

For the State : Mr. M. Nasrul Hoda Khan, SC 1 with
Mr. Md. Irshad, AC to SC 1

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date: 17-10-2017

Heard learned counsel for the petitioner and State.

2. The petitioner has moved the Court for the following
reliefs:

- “ i) For quashing the order contained in Memo no. 3459 dated 17.07.2015 issued under the signature of by Respondent No. 4, whereby petitioner has been placed under suspension with immediate effect in contemplation of a departmental proceeding.*
- ii) For further direction upon the Respondent authorities to allow the petitioner to resume his*



duty after revocation of suspension and to pay the legally admissible emoluments due to the petitioner.
iii) For any other relief or reliefs for which the petitioner is found entitled in the facts and circumstances of the case.”

3. The contention of the petitioner is that he had been suspended with regard to Economic Offence P. S. Case No. 06 of 2015 and for quashing of the same, he along with his wife and son had moved the Court earlier in Cr. W.J.C. No. 730 of 2015 which was finally allowed by judgment and order dated 18.04.2016 and the F.I.R. of the said case was quashed.

4. Learned counsel for the petitioner submitted that once the F.I.R. itself was quashed and the suspension order being based on such F.I.R., the petitioner was required to be reinstated, as the suspension also became incapable of continuing. Learned counsel submitted that in terms of the order of the Court the departmental proceeding initiated against the petitioner based on the said Economic Office P.S. Case No. 06 of 2015 was also dropped. Learned counsel submitted that the order of suspension dated 17.07.2015 is required to be set aside and the respondents may proceed in Departmental Proceeding No. 19 of 2016.

5. Learned counsel for the State has filed supplementary counter affidavit in which copy of the order contained in Memo No.



4883 dated 16.10.2017 passed by the S.P. (A), Special Branch, Bihar, Patna has been brought on record as Annexure-H by which the earlier order of suspension of the petitioner, which is impugned in the present writ application dated 17.07.2015, has been modified to the extent that the suspension is now based on Departmental Proceeding No. 19 of 2016, though earlier the same was based on Departmental Proceeding No. 21 of 2015 relating to Economic Offence P.S. Case No. 06 of 2015.

6. Having considered the matter, the Court does not find any merit in the submissions of learned counsel for the petitioner. Against the petitioner, Economic Offence P.S. Case No. 06 of 2015 was instituted and for the said reason Departmental Proceeding No. 21 of 2015 was also started. However, a co-ordinate Bench of this Court by judgment and order dated 18.04.2016 in Cr. W.J.C. No. 730 of 2015 has quashed the F.I.R. on the technical ground that there was already a substantive case lodged at Jharkhand for the same offence i.e., Doranda (Argora) P.S. Case No. 88 of 2015 and a second F.I.R. based on the same allegation cannot be sustained. However, liberty was given to the State of Bihar and its Investigating Agency to register a fresh F.I.R. in respect of any act of omission or commission on the part of the petitioner amounting to criminal misconduct under the P.C. Act and for that purpose any material which the investigating



Agency may have collected against the petitioner during investigation of Economic Offence P.S. Case No. 06 of 2015 was saved and could have been used during the investigation of the fresh case.

7. In view thereof, the State of Bihar has lodged Economic Offence P.S. Case No. 05 of 2016 and in relation to the same a fresh Departmental Proceeding No. 19 of 21016 has been initiated. Thus, it is clear that basically the reason for suspension is the same, though technically the case number and departmental proceeding number have changed.

8. Learned counsel for the petitioner may be correct in his contention that even such technicality should have been rectified and the same not having been done, the initial order of suspension indicating the F.I.R. which has been quashed and the departmental proceeding which has been withdrawn, was liable to set aside, but in view of the fact that the Court would look at the issue in substance rather than on mere hypertechnicality, the Court finds that, in essence, the allegation against the petitioner being in continuation to and also related to the initial F.I.R. and also there being a departmental proceeding based on such fresh F.I.R., there cannot be any infirmity assigned to such order of suspension moreso, when the same has now been rectified by modifying the earlier order to make it in conformity with the post 18.04.2016 development. Thus, the order contained in



Memo No. 4883 dated 16.10.2017 has to be read in continuity with the order impugned dated 17.07.2015.

9. For the reasons aforesaid, the writ petition stands dismissed.

(Ahsanuddin Amanullah, J)

Anjani/-

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