

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.15225 of 2016

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Shiv Shankar Prasad Son of Late Dwarika Prasad Resident of village - Gulli Bhatta
Sahibganj, P.S. Sahibganj, District Sahibganj (Jharkhand)

.... Petitioner/s

Versus

1. The State of Bihar through Principal Secretary General Administration
2. The Principal Secretary, General Administration Govt. of Bihar, Patna
3. The Joint Secretary General Administration, Govt. of Patna
4. The District Magistrate, Nalanda at Biharsharif.
5. District Magistrate, Patna
6. Sub - Divisional officer, Rajgir, Nalanda.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Binay Kumar Singh, Adv.

For the Respondent/s : Mr. Partha Sarthi- GA4

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

ORAL JUDGMENT

Date: 18-08-2017

Heard Mr. Rajendra Prasad Singh, learned Senior counsel
who appears along with Mr. Binay Kumar Singh, Advocate on record
and Mr. Partha Sarthi, learned counsel for the State.

The petitioner is aggrieved by the order of suspension
bearing Memo No. 11060 dated 12.08.2016 passed in purported exercise
of power vested under Rule 9 (1) (c) of the Bihar Government Servants
(Classification, Control and Appeal) Rules, 2005 (hereinafter referred to
as ‘the Rules’).

This is the second round suspension for the petitioner. The
earlier order of suspension bearing Memo No. 2546 dated 18.02.2016
passed under Rule 9 (c) of ‘the Rules’ was quashed by this Court in
reference to Rule 9 (7) of ‘the rules’ vide order passed in C.W.J.C. No.



6774 of 2016 and the matter was remanded to the authorities with liberty to pass fresh order in accordance with law. It is in view of the liberty so granted that the present order of suspension has been passed which is put to challenge herein.

It is the argument of learned Senior counsel that suspension order is resting on premise that the petitioner failed to file his reply to the charge memo, a copy of which is placed at Annexure-A to the counter affidavit of the State. Learned Senior counsel in reference to Annexure-17 has submitted that the reply to the charge served in form (ka) had been filed much before the passing of the order of suspension on 09.08.2016 which is confirmed from receipt. It is also the submission of learned Senior counsel that the order of suspension has been passed without application of mind.

Mr. Singh, learned Senior counsel in support has relied upon a Bench decision of this Court since reported in 1995 (2) PLJR 89 (Govind Prasad Sinha Vs. The State of Bihar) but in my opinion the reliance is misplaced because in the said case the suspension order was passed on the self same charges whereas in present case, the suspension order has been passed on merits. The reliance of learned counsel to the judgment in the previous round enclosed vide Annexure-14 again is misplaced because the bench even after quashing the order of suspension under rule 9 (7) of 'the Rules' gave liberty to the respondents to pass fresh orders.

Mr. Parth Sarthi, learned counsel for the respondents has



submitted that it is in the light of the serious allegation facing the petitioner as manifest from the charge memo that the disciplinary authority has passed the order of suspension and whereafter the proceeding have also been initiated. However, neither of the parties are in position to inform the Court, the status of the disciplinary proceeding.

In the circumstances so discussed above, this Court for the present is not persuaded to interfere with the order of suspension and thus would dispose of the writ petition with direction to the disciplinary authority to conclude the disciplinary proceedings expeditiously and preferably within four months from the date of receipt/production of a copy of this order.

It goes without saying that in case the disciplinary proceeding is not completed within the stipulated period for reasons not attributable to petitioner, the disciplinary authority would consider his prayer for revocation of the order of suspension and dispose of the same within a period of four weeks thereafter.

The writ petition is, accordingly, disposed of.

(Jyoti Saran, J)

Devendra/-

AFR/NAFR	NAFR
CAV DATE	
Uploading Date	09.09.2017
Transmission Date	

