

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.17144 of 2016

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Shivdani Prasad, S/o Late Jangli Mahto, resident of Mohalla- Dayachak, P.S. Barh,
District- Patna.

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Urban Development Department, Government of Bihar, Patna.
2. The Executive Officer, Nagar Parishad, Barh, District- Patna.
3. The Chairman, Nagar Parishad, Barh, District- Patna.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Chandra Bhushan Prasad, Adv.

For the Respondent/s : Mr. Yogendra Prasad Sinha, AAG-7

Mr. Rajeev Kumar Sinha, AC to AAG-7

For the Nagar Parishad : Mr. Tripurari Nath Ambastha, Adv.

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

ORAL JUDGMENT

Date: 25-08-2017

Heard the parties.

The petitioner is aggrieved by the suspension order bearing letter no.195 dated 26.2.2015 impugned at Annexure-2, whereby he has been suspended.

Mr. Chandra Bhushan Prasad, learned counsel appearing for the petitioner in reference to the statutory provisions underlying rule 9(7) of the Bihar Government Servants (Classification, Control and Appeal) Rules, 2005 (hereinafter referred to as ‘the Disciplinary Rules’) and in reference to the Full Bench judgment of this Court rendered in the case of **State of Bihar vs. Gyan Kumar Ram**) reported in **2009(4) PLJR 272** submits that the suspension order in absence of charge being framed within the statutory period



of 90 days has been rendered illegal.

Although a counter affidavit of the Nagar Parishad is on record but it does not indicate whether any disciplinary proceeding has been initiated.

In the circumstances discussed and in view of the law so well settled by the Full Bench in the case of **Gyan Kumar Ram** (supra) in absence of charge being framed within the statutory period of 90 days as prescribed under rule 9(7) of 'the Disciplinary Rules', the order of suspension impugned at Annexure-2 has become invalid and is accordingly quashed and set aside.

Let the dues so found admissible to the petitioner be paid to him within a period of three months from the date of receipt/production of a copy of this order.

The writ petition is allowed.

(Jyoti Saran, J)

SKPathak/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	31-08-2017
Transmission Date	NA

