

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.5535 of 2017

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1. Saket Bhushan Singh, aged about 52 years, Son of Late Raghvendra Narayan Singh, Resident of Asha Kutir, Kapasi Kothi, Police Station+ District- Nawada.

.... Petitioner/s

Versus

1. The State of Bihar.
2. The Principal Secretary, Agriculture Department, Bihar, Patna.
3. The Director Agriculture, Bihar, Patna.
4. The Joint Director (Agronomy), Patna Division, Patna.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Amit Kumar

For the Respondent/s : Mr. ANANT PD.SINGH-SC15

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA

ORAL JUDGMENT

Date: 05-09-2017

Heard both sides.

The petitioner has filed this writ petition for directing the respondents, particularly, respondents No.2 and 3, to revoke the suspension of the petitioner.

The petitioner was suspended vide order dated 13.11.2013, as contained in memo No. 1804, (Annexure-1) in contemplation of departmental enquiry but till date the departmental enquiry has not been concluded. The enquiry officer wrote letter to the presenting officer to make the documents available to the petitioner as the departmental proceeding has not begun for non handing over of relevant documents to the delinquent/ petitioner.

The learned counsel for the petitioner submits that petitioner has filed representation before the Director, Agriculture for revocation of his suspension as in the case of many other proceedees of the same department, i.e., Agriculture Department, Government of Bihar, the orders of suspension were



revoked but the petitioner is still continuing under suspension. The learned counsel for the petitioner further submits that this court in CWJC No. 10955 of 2016, while disposing of the writ petition, directed the concerned respondents to pass order on the representation of the petitioner in the light of the fact that departmental proceeding is not likely to be concluded in near future.

The State, of course, has filed counter affidavit but the State did not controvert any submission made by the petitioner in the entire counter affidavit and simply stated that in contemplation of departmental proceeding the petitioner was put under suspension and the departmental proceeding is still continuing.

It appears that petitioner was put under suspension on 13.11.2013 for issuance of forged land possession certificate but the departmental proceeding has not yet been concluded. The enquiry officer time and again reminded the presenting officer to make documents available to the petitioner so that the departmental proceeding may start. Sub Rule 7 of Rule 9 of Bihar Government Servant (Classification, Control & Appeal) Rules, 2005 provides that within three months from the date of suspension charge must be framed failing which the disciplinary authority has to give reasons and to extend the period for four months but if the charge is not framed within the extended period of four months the suspension order shall be deemed to have been revoked. The proviso of aforesaid Sub Rule clearly stipulates that if charge is not framed within four months of the extended period the order of suspension shall stand revoked.

Of course, it appears that after initiation of departmental proceeding charge was framed but the departmental proceeding is not proceeding further as the proceedee demanded certain documents and the enquiry officer directed the presenting officer to supply the documents to the delinquent so that



the delinquent may be able to file his reply and present his case but till date the documents have not been handed over to the delinquent/ petitioner. The petitioner has been under suspension for last about four years and his representation for revocation of suspension is also pending before the Director, Department of Agriculture, Government of Bihar, who is competent to pass order.

Having considered the submissions of both the parties, I dispose of the writ petition with a direction to the Director, Department of Agriculture, Bihar, Patna, respondent No.3, to dispose of the representation of the petitioner within two months from the date of receipt of this order in the light of provisions and circulars of the Government of Bihar.

This writ petition is disposed of.

(Prabhat Kumar Jha, J)

BKS/-

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	12.09.2017
Transmission Date	N.A.

