

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.4899 of 2017

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Birendra Kumar Sahu, S/o Sri Parmeshwar Sahu, Resident of Mohalla- Bhoot Nath Road, Police Station- Agamkaun, District- Patna, Presently posted as Deputy Superintendent of Police (Suspended), Head Office, Office of Deputy Inspector General of Police, Purnia.

... .. Petitioner/s

Versus

1. The State of Bihar represented through the Chief Secretary, Government of Bihar, Patna.
2. The Principal Secretary, Department of Home (Police), Government of Bihar, Patna.
3. The Principal Secretary, Department of Vigilance, Government of Bihar, Patna.
4. The Director General of Police, Bihar, Patna.
5. The Director General, Vigilance Investigation Bureau, Bihar, Patna.
6. The Additional Director General of Police (Law & Order), Bihar Patna cum Conduction Officer.
7. The Special Secretary, Department of Home(Police), Government of Bihar, Patna.
8. The Superintendent of Police, Vigilance Investigation Bureau, Bihar, Patna cum Presenting Officer.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Bindhyachal Singh, Adv.
Mr. Krishna Chandra, Adv.
For the Vigilance : Mr. Ramakant Sharma, Sr. Adv.
Mr. Rakesh Kr. Sharma, Adv.

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH



ORAL JUDGMENT**Date : 12-09-2017**

The petitioner is aggrieved by a notification, dated 05.06.2015, issued by the Home (Police) Department, Govt. of Bihar, whereby, the petitioner has been put under suspension in exercise of power under Rule 9 (1) (c) of the Bihar Government Servant (Classification, Control and Appeal) Rule, 2005 (*in short 'Rules'*), in view of pendency of a criminal case against him, being Vigilance Case No. 042 of 2015.

2. Learned counsel, appearing on behalf of the petitioner, assailing the impugned order, has submitted, referring to the language of Rule 9 (1) (c) of the Rules, that said power can be exercised only in 'public interest'. According to him, this requirement, under Rule 9 (1) (c) of the Rules, mandates that the competent authority must be satisfied of public interest while exercising such power under Rule 9 (1) (c) of the Rules. He contends that it is not reflected from the notification that the competent authority thought it proper in the public interest to put the petitioner under suspension, in the absence of any recital in the notification.

3. I do not consider it to be mandatory for the competent authority/disciplinary authority to record in the notification or in the order while exercising power, under Rule 9 (1) (c) of the



Rules, that such power was being emphasized in public interest. Rule 9 (1) (c) of the Rules confers upon the appointing authority, power to put under suspension a government servant, if the authority is satisfied that it is expedient to suspend the government servant in public interest. Absence of the words expression, 'it is expedient to suspend the government servant in public interest', cannot render such order to be illegal.

4. Learned counsel for the petitioner has, however, submitted that the petitioner has not been paid his subsistence allowance during the period of suspension, as per the extant Rules. He contends that after one year of his suspension, the petitioner is entitled for subsistence allowance at enhanced rate.

5. I, accordingly, direct the Principal Secretary, Home Department, Govt. of Bihar, to consider this aspect of the matter of payment of subsistence allowance at enhanced rate, according to Rule 10 of the Rules. Such decision must be taken within a period of two (2) months from the date of receipt/production of a copy of this order.

6. Learned counsel for the petitioner has submitted that though there is power vested in the appointing authority to put a government servant under suspension, under Rule 9 (1) (c) of the Rules, the appointing authority has still power to



review/reconsider an order of suspension, if it continues for long in public interest. He submits that the respondents should consider this aspect of the matter, since the petitioner has remained under suspension for more than two years.

7. While disposing of this writ application, I also observe that the respondents shall consider the petitioner's representation for revocation of the order of suspension, on the ground of its long continuance, if a representation is filed by the petitioner within a fortnight from today. If such representation is filed within a fortnight, the Court expects the Department to consider such representation and take a final decision within a period of two (2) months thereafter.

8. The application stands disposed of.

(Chakradhari Sharan Singh, J)

Praveen-II/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	14.09.2017
Transmission Date	N/A

