

**IN THE HIGH COURT OF JUDICATURE AT PATNA**

**Civil Writ Jurisdiction Case No.13515 of 2016**

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Ram Chandra Sharma Son of Late Bachchu Sharma present resident of Adarsh Vihar Colony, P.S. - Rupaspur, District - Patna.

.... .... Petitioner

Versus

1. The State of Bihar through the Secretary, Rural Works Department, Government of Bihar, Vishweswaraiya Bhawan, Bailey Road, Patna.
2. Secretary, Rural Works Department, Government of Bihar, Vishweswaraiya Bhawan, Bailey Road, Patna (Bihar).
3. Special Secretary, Rural Works Department, Government of Bihar, Vishweswaraiya Bhawan, Patna (Bihar).
4. Secretary, Planning and Development Department, Govt. of Bihar, Patna.

.... .... Respondents

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**Appearance :**

For the Petitioner/s : Mr. Ashutosh Nath, Adv.  
Mr. Binod Kumar, Adv.

For the Respondent/s : Mr. Anwar Karim, AC to GP10

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**CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN**

**ORAL JUDGMENT**

**Date: 07-07-2017**

Heard Mr. Ashutosh Nath, learned counsel appearing for the petitioner and Mr. Anwar Karim, learned AC to GP-10, for the State.

The petitioner is aggrieved by the order of suspension bearing memo No. 2597 dated 6.8.2014, whereby in exercise of power vested under Rule 9(i)(c) of the Bihar Government Servants (Classification, Control and Appeal) Rules, 2005 (hereinafter referred to as 'the Disciplinary Rules') the petitioner has been put under suspension on institution of a criminal case.

The issue raised by Mr. Nath, learned counsel for the petitioner, is in reference to a judgment of this Court passed in C.W.J.C.No. 5477/2016 (**Ishwar Dayal vs. the State of Bihar &**



ors.) to submit that just as in the said case, even in the present case, despite the criminal case having been instituted as on 29.5.2013 giving rise to Economic Offence Case No. 14/2013 and which is the foundation for the suspension order, cognizance is yet to be taken. He submits that this Court in reference to the guidelines issued by the State Government in its Department of Personnel and Administrative Reforms dated 3.7.1986 wherein it is stipulated that where foundation for the suspension order is resting on the criminal case and the cognizance is not taken within a period of two years, the suspension be revoked, has quashed the suspension order and the same situation governs the present case as well.

Situation is not disputed by Mr. Karim, who admits that although the charge sheet has been submitted in the criminal case, no cognizance has yet been taken.

I have heard learned counsel for the parties and have perused the records.

The order of suspension is placed at Annexure 1 and rests on institution of the criminal case. In view of the admitted position where the criminal case having been instituted in 2013, cognizance is yet to be taken, following the judgment of this Court in the case of **Ishwar Dayal (supra)** and in view of the stipulations present in the guidelines of the Department of Personnel and Administrative Reforms in its



circular dated 3.7.1986, the order of suspension bearing memo no. 2597 dated 6.8.2014 impugned at Annexure 1 cannot be upheld and is accordingly quashed and set aside.

The writ petition is allowed.

**(Jyoti Saran, J)**

Surendra/-

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