

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.4960 of 2017

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Vinod Kumar, Son of Subelal Ram, Resident of Village- Sarmastpur, P.S.-
Sakra, District- Muzaffarpur.

... .. Petitioner/s

Versus

1. The State of Bihar, through the Principal Secretary, Rural Development Department, Govt. of Bihar, Patna.
2. The Secretary, Rural Development Department, Govt. of Bihar, Patna.
3. The Under Secretary, Rural Development Department, Govt. of Bihar, Patna.
4. The Deputy Development Commissioner, Patna.
5. The District Magistrate, Gaya.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Md. Anisur Rahman, Adv.

For the Respondent/s : Mr. Anjani Kumar-AAG-4

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL JUDGMENT

Date : 12-09-2017

A notification, dated 08.11.2016, issued by the Rural Development Department, Govt. of Bihar, whereby, the petitioner has been put under suspension, in view of a pendency of a criminal case, under Rule 9 (1) (c) of the Bihar Government Servant (Classification, Control and Appeal) Rule, 2005 (*in short 'Rules'*),



is under challenge in the present application filed under Article 226 of the Constitution of India.

2. Learned counsel for the petitioner, assailing the impugned order, has submitted that by operation of Rule 9 (1) (c) of the Rules, the order of suspension has become in-operational.

3. I do not find any substance in said submission. The petitioner has been put under suspension, under Rule 9 (1) (c) of the Rules, in view of pendency of investigation/enquiry/trial of a criminal case and not in contemplation or during the pendency of a departmental proceeding. On the ground that the disciplinary proceeding has not been initiated, the impugned order cannot be interfered with by applying Rule 9 (7) of the Rules.

4. The said order, dated 08.11.2016, does not require interference for the present.

5. It will be, however, open to the petitioner to approach the competent authority for revocation of suspension in view of its long continuance.

6. Another grievance, which learned counsel for the petitioner has raised in the present application, is that the petitioner is not getting his subsistence allowance. If the competent authority has power to suspend its employee, under the Rules, he has equal responsibility to ensure that such government servant is paid his



subsistence allowance regularly in accordance with law. None payment of subsistence allowance, during the currency of suspension, has serious consequences and cannot be taken lightly as none payment of subsistence allowance, at times, adversely affects the employee to pursue his case in a departmental proceeding or criminal case, effectively.

7. I, accordingly, direct the Principal Secretary, Rural Development Department, Govt. of Bihar, to ensure that the petitioner is paid his admissible subsistence allowance within a period of one (1) months from the date of receipt/production of a copy of this order.

8. This application stands disposed of.

9. It will be, however, open to the petitioner to pursue his case before the competent authority for revocation of suspension.

(Chakradhari Sharan Singh, J)

Praveen-II/-

AFR/NAFR	NAFR
CAV DATE	N/A
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