

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16501 of 2016

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Birendra Kumar Singh, son of late Bhola Singh, A/22 Bank New Colony
Chitragupta Nagar, P.S. Patrakar Nagar, Distt. Patna - 850020.

.... Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Govt. of Bihar, Patna.
2. Principal Secretary, Education Department, Bihar, Patna.
3. Director, Administration cum Additional Secretary, Education
Department, Bihar, Patna.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Ram Hriday Prasad, Advocate

For the Respondent/s : Mr. Madhaw Pd. Yadav, GP-23

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**CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR
UPADHYAY**
ORAL ORDER

7 13-02-2018

Heard learned counsel for the petitioner and State.

Mr. Ram Hriday Prasad, learned counsel for the petitioner submits that petitioner was suspended by a person, not competent to suspend the petitioner, and as such the order of suspension is without jurisdiction. However, he has admitted the fact that during the pendency of the writ application the petitioner was inflicted with order punishment.

In view of the subsequent order of inflicting punishment, the order of suspension has now no merit on the claim of the petitioner that the suspension itself was without jurisdiction and as such the petitioner is entitled to payment of salary for the period of suspension.

The writ application is disposed of with a direction to



the respondents to take final decision in terms of Rule 97 of the Bihar Service Code within a maximum period of two months from today. The respondents are required to consider the fact that the petitioner was a gazetted officer and, as such, the respondents are directed to examine the legality and validity of the order of suspension, particularly, on the point of competence of the officer, who passed the order of suspension, even otherwise Rule 97 of the Bihar Service Code oblige the respondents to take final decision on the point of payment of salary for the period of suspension.

The petitioner is directed to file representation before respondent no.3, Director, Administration cum Additional Secretary, Education Department, Bihar, Patna to take final decision with regard to the admissibility of the claim of the petitioner for payment of salary during the period of suspension. In case, such representation is filed by the petitioner within a period of one month from today along with a copy of this order, the respondent no.3 shall examine the claim of the petitioner for payment of salary for the period of suspension by a reasoned and speaking order within a further period of two months.

It goes without saying that while disposing of the representation of the petitioner, the respondent no.3 is required to consider the statement of the petitioner about the discrimination in



the matter of revocation of suspension and payment of salary for the period of suspension, particularly, the case of Kumari Sandhya.

So far as punishment order is concerned, a separate cause arose, and the petitioner if so advised may approach the appropriate forum challenging the punishment order.

With the aforesaid, the writ application stands disposed of.

(Anil Kumar Upadhyay, J)

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