

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.14609 of 2010**

=====

BIJAY KUMAR SINHA S/O LATE SINGHESHWAR PRASAD R/O  
GULZARPOKHAR, MUNGER, AT PRESENT RESIDING AT RAJENDRA  
NAGAR, ROAD NO.2, P.S.- KADAMKUAN, DISTT.- PATNA

... .. Petitioner/s

Versus

1. THE STATE OF BIHAR THROUGH THE PRINCIPAL SECRETARY  
ROAD CONSTRUCTION DEPARTMENT, HAVING HIS OFFICE AT  
VISHWES SARAIYA BHAVAN, P.S.- SHASTRI NAGAR, DISTT.- PATNA
2. THE FINANCE COMMISSIONER GOVERNMENT OF BIHAR HAVING  
HIS OFFICE OF OLD SACHIVALAYA, P.S.- SACHIVALAYA, DISTT.-  
PATNA
3. THE ENGINEER IN CHIEF ROAD CONSTRUCTION DEPARTMENT,  
HAVING HIS OFFICE IN VISHWESHSARAIYA BHAWAN, P.S.-  
SHASTRI NAGAR, DISTT.- PATNA
4. THE ACCOUNTANT GENERAL, (A&E), PATNA HAVING HIS OFFICE  
AT BIRCHAND PATEL PATH P.S.- KOTWALI, DISTT.- PATNA

... .. Respondent/s

=====

**Appearance :**

|                            |   |                 |
|----------------------------|---|-----------------|
| For the Petitioner/s       | : | Mr. Vikas Mohan |
| For the Accountant General | : | Mr. Uday Kumar  |

=====

**CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH**  
**ORAL ORDER**

4      18-06-2018                      The petitioner by way of the present writ petition has  
prayed for grant of 1<sup>st</sup> and 2<sup>nd</sup> Assured Career Progression  
(A.C.P.) with effect from 09.08.1999 and 2003 respectively.

The learned counsel for the petitioner submits that the  
only reason for denial of the 1<sup>st</sup> and 2<sup>nd</sup> A.C.P. to the petitioner  
herein is the pendency of a departmental proceeding, as has  
been contended in the counter affidavit filed by the  
Respondents. The learned counsel for the petitioner relies upon  
a judgment reported in *2008(4) P.L.J.R. 244 (Ranjan Kumar  
Chauhan v. State of Bihar)* to contend that in a similar situation



where the petitioner of that case was denied grant of benefit of the A.C.P. Scheme on account of pendency of a departmental proceeding and a criminal proceeding, this Court had directed for considering the case of the said petitioner for granting the benefit of the Assured Career Progression Scheme.

It is a trite law that the benefit of Assured Career Progression Scheme is not a promotion in the sense of the term of a vertical movement from a lower post to a higher post, but it is only a grant of certain monetary benefits on the same post on account of stagnation on the said post. In such view of the matter, the Respondent-authorities cannot deny the grant of benefits of the Assured Career Progression Scheme to the petitioner herein, especially, in view of the fact that there is no such notification / circular of the State Government which bars grant of the benefits of the Assured Career Progression Scheme on account of pendency of either the departmental proceeding or a criminal proceeding.

In such view of the matter, I find that the petitioner is entitled to be granted the benefits of the Assured Career Progression Scheme de-hors the fact that a C.B.I case is pending against him.

Having regard to the facts and circumstances of the



case, more particularly the fact that the Respondents, in their counter affidavit, have failed to produce any notification or circular of the State Government to show that the benefits of Assured Career Progression Scheme cannot be granted to a person against whom either a departmental proceeding or a criminal proceeding is pending, the present writ petition is allowed and the Respondents are directed to grant the benefits of the 1<sup>st</sup> and 2<sup>nd</sup> Assured Career Progression Scheme to the petitioner within a period of four weeks from today. The consequential benefits be granted within a period of six weeks thereafter.

The writ petition is allowed.

**(Mohit Kumar Shah, J)**

ajay gupta/-

|   |  |  |  |
|---|--|--|--|
| U |  |  |  |
|---|--|--|--|

