

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.19345 of 2016

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Jaipal Singh, son of Sanatan Prasad Singh, resident of Village- Balwagatti, P.O.- Hemkunj, P.S.- Amdabad, District- Katihar. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Education Department, Government of Bihar, Patna.
 2. The Magistrate, Katihar.
 3. The District Education Officer, Katihar.
 4. The Block Development Officer, Amdabad, District- Katihar.
 5. Block Education Officer, Amdabad, District- Katihar. Respondent/s
- =====

Appearance :

For the Petitioner/s : Mr. Arvind Kumar Sharma, Advocagte

For the Respondent/s : Mr. Prabhat Ranjan Singh, AC to AAG15

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY

ORAL JUDGMENT

Date: 19-04-2018

Heard learned counsel for the petitioner and counsel
appearing on behalf of the respondents.

2. Petitioner is aggrieved by the order of suspension dated
11.05.2013 (Annexure-4).

3. Mr. Dinu Kumar, learned counsel for the petitioner
submits that even after 4 years and 11 months the respondent have
neither served Prapatra “Ka” about concluding of the departmental
proceeding. Learned counsel submits that notwithstanding clear
statement made in Para- 3 of Annexure-4, it is admitted that 50 per
cent of subsistence allowance is to be paid during the period of
suspension, but nothing has been paid to the petitioner. There is no
dispute in the counter affidavit that Prapatra “Ka” has not been served
nor subsistence allowance was paid.



4. In the aforesaid circumstance, the order of suspension cannot sustain and is accordingly hereby quashed. The respondents are directed to ensure payment of salary for the period petitioner was put under suspension, in view of the fact that petitioner was not paid subsistence allowance and as such for period he was not paid subsistence allowance, the departmental proceeding shall be treated nullity in view of the law laid down by the Apex Court in the case of **State of Maharashtra Vs. Chandrabhan Tale**, reported in **AIR 1983 SC 803** and the judgment in **(Capt) M. Paul Anthony Vs. Bharat Gold Mines Ltd. & Ano.**, reported in **AIR 1999 SC 1016**.

5. However, quashing of suspension order will not come in the way of respondents conducting departmental proceeding, but having regard to the time consumed by the respondents the Court grants three months time to the respondents to complete the departmental proceeding in accordance with law, failing which the departmental proceeding will come to end automatically after expiry of three months.

6. With the aforesaid, Annexure-4 is quashed and the writ application is allowed.

(Anil Kumar Upadhyay, J)

Uday/-

AFR/NAFR	NAFR
CAV DATE	NA
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