

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2542 of 2017

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Prem Kumar son of Late Babu Bhagwan Prasad, Resident of Village- Paiga,
Police Station- Bheddi, District- Saran (Chapra).

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. The Principal Secretary, Home Department, Government of Bihar, Patna.
3. The Inspector General, Prison Reform Services, Bihar, Patna.
4. The Deputy Secretary, Home (Special) Department, Government of Bihar, Patna.
5. The Principal Secretary, General Administration Department, Government of Bihar, Patna.
6. The Joint Secretary-cum-Director (Administration), Government of Bihar, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Shashi Bhushan Kumar
For the Respondent/s : Mr. Parth Sarthi- GA4

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY
ORAL JUDGMENT

Date : 25-09-2018

Heard learned counsel for the petitioner and counsel for
the State.

In this case, the petitioner is facing departmental
proceeding arising out of Vigilance Trap Case No. 73 of 2006 and
Vigilance P.S. Case No. 102 of 2006.

Earlier the petitioner was put to departmental proceeding
with respect to a trap case corresponding to Vigilance Trap Case
No. 73 of 2006. The departmental proceeding with respect to trap
case concluded with acquittal of the petitioner and, during that
period, the departmental proceeding related to D.A. matter was
kept in abeyance. After the success of the petitioner in the trap



case, the present departmental proceeding has been opened and the petitioner has been directed to participate in the departmental proceeding.

Learned counsel for the petitioner submits that the criminal case and the departmental proceeding are identical and if the petitioner will be compelled to participate in the proceeding will also be compelled to disclose his defence before the Enquiry Officer and that will help the prosecution to fill up the lacuna and will ultimately create prejudice to the petitioner.

This Court, vide order dated 2.8.2018, had directed the State as with regard to stage of the prosecution case pending before the Special Court. A second counter affidavit has been filed by the State wherein it has been stated that the prosecution has given list of 11 prosecution witnesses and, out of that, the prosecution has examined one witness but, that witness has partly been cross-examined by the defence that too on 21.6.2017, whereafter, no progress has been shown in the present affidavit.

It is high time that this is the case of the year 2006 and 12 years have already completed. One witness has been examined till date to prove the charge against the petitioner which shows shocking state of affairs. During the pendency of the special case, the departmental proceeding with respect to D.A. matter has been



initiated. The criminal case with respect to D.A. matter is still pending before criminal court. Only one witness, in half, has been examined and it appears that neither party is interested to conclude the trial and, in one way or the other, the trial is being protracted.

Learned counsel for the petitioner submits that on each and every day, he has appeared, there is no fault on his part but, it is the prosecution which is not bringing the witness.

In that view of the matter, this Court directs the Special Judge to conclude the trial within a period of nine months from the date of receipt of this order and, equally, the Superintendent of Police, Vigilance, is also directed to ensure presentation of the prosecution witness and further it is directed that on the day of appearance of the witness, his examination and cross-examination should be completed. The Court will not accede the prayer for adjournment on the plea of cross-examination. If the examination is not concluded, it will continue on the next date and the trial should be concluded on day-to-day basis. After the completion of the trial, the Presiding Officer will submit a report to this Court for perusal and, till pendency of the D.P. case, the departmental proceeding will be kept in abeyance and, after completion of the trial, the departmental enquiry will automatically revive and the



prosecution will be at liberty to proceed further in the departmental proceeding.

With the aforementioned observation and direction, this writ application is disposed of.

(Shivaji Pandey, J)

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AFR/NAFR	NAFR
CAV DATE	NA
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