

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4908 of 2018

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Rajendra Kumar Mishra @ Rajendra Mishra S/o Late Chandra Shekhar Mishra resident of Village - Jurabanpur Barari, P.S. - Jurabanpur Karari, District - Vaishali at Hajipur.

... .. Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Education Department, Govt. of Bihar, Patna.
2. The Principal Secretary, Education Department, Govt. of Bihar, Patna.
3. The Director (Administration-cum-Additional) Secretary, Education Department, Bihar, Patna.
4. The Director, Secondary Education, Bihar, Patna.
5. The District Education Officer, Samastipur.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. P.K. Shahi, Senior Advocate Mr. Ranjeet Choubey
For the Respondent/s	:	Smt. Binita Singh, S.C.-28 Mr. Apurv Harsh, A.C. to S.C.-28

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY
ORAL JUDGMENT

Date : 11-07-2018

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

2. In this case, the petitioner is challenging the order dated 19.02.2018, by which the petitioner has been put under suspension in contemplation of departmental inquiry. In Clause-V of the said order, it has been mentioned that “*Prapatra-K*” will be issued subsequently.

3. As per the record of the case, it appears that the petitioner has been proceeded departmentally on account of



certain misconduct mentioned in the letter dated 19.02.2018, showing wrong act has been done by the petitioner, but in the said letter, it has been mentioned that the petitioner has been put under suspension in terms of Rule-9(1)(a) of the Bihar Government Servants (Classification, Control & Appeal) Rules, 2005.

4. In Rule-9(7) of the aforesaid Rules, 2005, it has been provided that its validity is for three months and before expiry of three months, the disciplinary authority, if so desire, may record the reason and can extend the period of suspension further, for four months and thereafter in failure to serve the charge-sheet, extension of suspension is prohibited and the order of suspension will be treated to have been cancelled.

5. Admittedly, in the present case, the order of suspension has been passed on 19.02.2018. Three months time has come to an end on 17.05.2018. The disciplinary authority could have extend the period of suspension, recording the reason of non-service of charge-sheet. But, in the present case, neither the period of suspension with a specific order has been extended nor the charge-sheet has been served upon the petitioner. In such a situation, the order of suspension cannot be allowed to sustain.



6. In such view of the matter, the order dated 19.02.2018 passed by the Director (Administration) -cum- Additional Secretary, Education Department, Bihar, Patna, is quashed. However, it will not come in the way of continuation of departmentally proceeding.

7. With the aforesaid observations and directions, this writ petition is allowed to the aforesaid extent.

(Shivaji Pandey, J)

pawan/-

AFR/NAFR	N.A.F.R.
CAV DATE	N/A.
Uploading Date	13.07.2018
Transmission Date	N/A.

