

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.1240 of 2018

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Sanjay Kumar, Son of Late Phuldeo Prasad, Resident of Village- Maldah, P.S.-
Barbigha, District- Sheikhpura.

.... Petitioner/s

Versus

1. The State of Bihar.
2. The Secretary, Prohibition, Excise and Registration Department, Government of Bihar, Patna.
3. The Special Secretary, Prohibition, Excise and Registration Department, Government of Bihar, Patna.
4. The Commissioner of Excise & Prohibition Department, Government of Bihar, Patna.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Siyaram Shahi,
Mr. Indu Bhushan.

For the State : Mr. Harishankar Ray (A.C. to A.G.)

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 26-06-2018

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

In the present case, the petitioner is challenging the suspension order dated 02.01.2018 by which in exercise of power conferred under Bihar CCA Rules, 2005 has been put under suspension during enquiry.

A proceeding was initiated against him and the same was resulted into dismissal, the same was challenged before this Court having been remanded back the matter, second show cause has been



issued and after that the petitioner has been reinstated in service vide memo no. 5192 dated 28.12.2017 and later on he has been put under suspension.

Learned counsel for the petitioner submits that the Rule does not envisage such a situation of putting the person under suspension once the order of the suspension is set aside and matter is remanded back and where the employee has been reinstated. He further submits that Rules 11, 12 and 13 does not envisage the situation that in the event of reinstatement the petitioner can put under suspension again. Rules 11, 12 and 13 deal with other aspect of the matter. It is not dealing with the situation of putting the person under suspension. Rule 9 is proper Rule which empowers the employer to put the employee under suspension.

Rule 9 (5) is the relevant provision which deals with the situation in the event the order of punishment and dismissal is to be set aside, only plea has been taken that the employer does not have power for putting the person under suspension. It is not acceptable to this Court as employer has inherent right to place the employee under suspension. This view has been fortified by the judgment of the Hon'ble Supreme Court in the case of the Management of Hotel Imperial vs. Hotel Worker's Union, reported in AIR 1959 SC 1342.

In such view of the matter, this Court only directs the respondent



to conclude the proceeding and take a final decision in the matter within a period of two months from the date of receipt/production of a copy of this order. However, the petitioner can approach before the employer for the proper redressal of his grievance with respect to payment at subsistence allowance.

It is expected that if the petitioner has not been paid the admissible amount as provided under Bihar CCA Rules, 2005, which stipulates when a person has been put under suspension, cannot be deprived from the statutory amount and the same must be released forthwith.

With the aforesaid observation and direction this writ petition is disposed of.

(Shivaji Pandey, J)

Vinay/-

AFR/NAFR	NAFR
CAV DATE	NA
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