

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.16550 of 2017

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1. Dinesh Safi, S/o Late Mahanthi Safi, R/o At+P.O.- Sukki, P.S.- Khajauli,
District- Madhubani.

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Education, Government of Bihar, Vikash Bhawan, New Secretariat, Patna.
2. The Principal Secretary, Department of Education, Government of Bihar, New Secretariat, Patna.
3. The Director (Primary Education), Department of Education, Government of Bihar, New Secretariat, Patna.
4. The District Administration-cum-Additional Secretary, Department of Education, Government of Bihar, New Secretariat, Patna.
5. The District Magistrate, District- Begusarai.
6. The District Development Commissioner, District- Begusarai.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Avanindra Kumar Jha

For the Respondent/s : Mr. MADANJEET KUMAR -GP20
Mr. Narendra Kumar, A.C. to G.P.20.

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY

ORAL JUDGMENT

Date: 07-05-2018

Heard learned counsel, Mr. Y.V. Giri, for the petitioner and
counsel appearing on behalf of the state.

Manifold submission has been advanced by learned counsel Mr.
Giri, to contend that the present enquiry is contrary to the direction
issued by the Division Bench in C.W.J.C. No. 15737 of 2016. He
submitted that although the Public Interest Litigation in service
matter is not maintainable but the decision of the Division Bench in
C.W.J.C. No. 15737 of 2016 has become now final and the petitioner
is not challenging the said decision as the Forum is available else



where. However, he submitted that whatever direction was issued in that case was not followed by the District Magistrate. For ready reference, the direction in C.W.J.C. No.15737 of 2016 dated 24.10.2016 is quoted below :-

“.....We would expect the District Magistrate to devote time, notwithstanding the fact and without being prejudiced by the fact that in the District Promotion Committee, there are two nominees of him. He should conduct the enquiry in a fair and impartial manner to ensure that the norms set out for the purposes of promotion are duly followed. He would be entitled to summon persons and records for the purposes of the enquiry and he would finally take action within the period stipulated above without any further delay.

With this observation, this application stands disposed of.”

Learned Counsel, Mr. Giri, referred to the aforesaid direction of the Writ Court and submitted that if the enquiry report of the District Magistrate is examined in the light of the observation and direction of the Writ Court in CWJC No.15737 of 2016, any prudent man can understand that the report in breach of the direction issued by the Writ Court and as such it is unsustainable. He submitted that petitioner was under suspension vide order contained in Annexure-26, the Notification dated 12.10.2017. Referring to the Bihar Government Servant (CCA) Rule, 2005 he submitted that petitioner has now remained under suspension for more than 7 months, i.e., within maximum time limit. There is a dispute whether Prapatra ‘Ka’ was



served on the petitioner or not, without going into the controversy aforesaid the Court is of the view that since the suspension order is dated 12.10.2017, the same was issued in contemplation of departmental proceeding. The Court is of the view that the enquiry pre-supposes the appointment of the enquiry officer, presenting officer. Respondents are required to serve the petitioner materials on which the enquiry is to be conducted.

In the aforesaid background of the fact that the Court does not approve action of the respondent in continuing the petitioner under suspension for the last more than nearly 7 months. The order contained in Annexure-26 (Memo No.696 dated 12.10.2017) is now not to be allowed to continue any further, accordingly Annexure-26 is hereby quashed. However, quashing of the order of suspension will not disentitle the respondent from conducting the enquiry in accordance with the Rules, i.e., Bihar Govt. Servant (CCA) Rule, 2005. They are required to conclude the enquiry at the earliest keeping in view the fact that the petitioner was the Chairman of the multi Committee which took decision. The respondents are required to conclude the entire departmental proceeding expeditiously preferably within a period of six months failing which the departmental proceeding will come to an end after expiry of six months from today.



With the aforesaid, this writ application is allowed and disposed
of to the extent indicated above.

(Anil Kumar Upadhyay, J)

Sanjeev/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	
Transmission Date	

