IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6766 of 2015

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Amit Kumar Sinha son of Shiv Shankar Prasad Sinha, resident of Village-Taralahi, P.S.-Bahadurpur, District-Darbhanga

... ... Petitioner

Versus

1. The State Of Bihar through Commissioner cum Secretary, Registration, Excise & Prohibition Department,Bihar Patna
2. Excise Superintendent, Lakhisarai

... ... Respondents

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Appearance :

For the Petitioner/s : Mr.Abhinav Srivastava
For the Respondent/s : Ms. Prachi Pallavi, AC to AG

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CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD

ORAL ORDER

3 16-04-2019 Heard learned Counsel for the petitioner and the learned Counsel for the State.

In the month of April 2013, the petitioner was appointed as Sub Inspector, Excise, under the State of Bihar. Four months thereafter, on 22.8.2013, he submitted resignation with immediate effect. The same was accepted on 1.10.2013 as per office order which is appended to the counter affidavit issued by Secretary to the Commissioner, Excise, Bihar Patna.

In the opinion of the Court the issue of acceptance of resignation stood concluded.

Counsel for the petitioner, however, submits that the office order dated 1.10.2013 cannot be taken to be a communication and, as such, the same is not effective to break master – servant relationship between the petitioner and the State. Other issue which has been raised is that the same is issued so as to have retrospective effect, which is impermissible as the order would only take effect from the date of its issuance.

This Court would have gone into this issue in the instant proceeding, but for the fact that the respondents themselves on the application of the petitioner for withdrawing his resignation have issued letter dated 28.3.2014 asking the petitioner whether the compelling circumstances, which forced him to make an application for resignation, still continues or whether the situation has changed. The petitioner, in response to the letter dated 28.3.2014 issued by Secretary to Commissioner, Excise Bihar Patna, has submitted his response on 31.3.2014 and 21.8.2014. The issue was therefore required to be considered as the respondents themselves had called on the petitioner to clarify the position by their communication dated 28.3.2014. Till date the same has not been considered. Even the counter affidavit does not disclose what has been outcome of the exercise initiated by letter dated 28.3.2014 taken note of hereinabove.

This Court therefore would dispose of the writ petition with a direction to the respondents, specifically respondent No. 1, to take a decision on the petitioner’s response expeditiously, without any undue delay and preferably within a period of three months from the date of receipt/production of a copy of this order. It would be open to the petitioner to raise any other points. However, if he desires to do so the same should be done not latter than two weeks from today.

The writ petition is disposed of.

(Madhuresh Prasad, J)

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