

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13489 of 2019

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Ganesh Prasad S/o Gopal Prasad R/o Village and P.O.-Sirsi, P.S.-Chainpur,
District-Kaimur at Bhabhua. At present Large Building, Near Maszid
Sultanpur, P.S.-Danapur, P.O.-Danapur Cantt. District-Patna

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Govt. of Bihar, Patna
2. The Secretary Human Resource Development Department, Govt. of Bihar, Patna
3. The Divisional Commissioner Patna
4. The District Magistrate Buxar
5. The District Development Commissioner cum Chief Executive Officer District Council, Buxar
6. The District Education Officer Buxar
7. The District Program Officer (Establishment) Buxar
8. The Headmaster Plus 2 Project Girls High School, Brahmpur, Buxar
9. Sri Abhyanand Yadav Clerk, Plus 2 Project Girls High School, Brahmpur, Buxar

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Sujeet Kumar Gupta, Advocate
For the Respondent/s : Ms. Neetu Jha, A.C. to G.A. 12

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL ORDER

2 05-07-2019 Heard learned counsel for the petitioner and learned
counsel appearing on behalf of the State.

The petitioner is aggrieved by the order contained in Annexure 6, dated 01.09.2017. The Deputy Development Commissioner-cum-Chief Executive Officer, District Council, Buxar, has issued the order of suspension. The order of suspension of the petitioner in contemplation of departmental proceeding cannot continue for indefinite period. All though



Annexure 3, in fact, indicates that the petitioner is entitled to subsistence allowance. It is alleged in the writ petition that the petitioner has not been paid subsistence allowance. The petitioner has also raised the issue of competence of District (Deputy) Development Commissioner in the matter of passing order of suspension.

Considering the fact that the petitioner has remained under suspension from 01.09.2017, the order of suspension continuing is quashed. The respondents are hereby directed to complete the departmental proceedings, if any, against the petitioner within a maximum period of 4 months from the date of receipt/production of a copy of this order. It is made clear that the petitioner has not been paid subsistence allowance, then the entire departmental proceedings shall stand vitiated in view of the law laid down by the Apex Court in the case of State of Maharashtra Vs. Chandrabhan Tale, reported in AIR 1983 SC 803 and the judgment in the case of (Capt.) M. Paul Antony Vs. Bharat Gold Mines.

While disposing of the present writ petition the Court directs the respondents to ensure the payment of subsistence allowance to the petitioner within a period of one month from the date of receipt/production of a copy of this order.



With the aforesaid, the present petition stands allows
and disposed of to the extent stated hereinabove.

(Anil Kumar Upadhyay, J)

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