

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11323 of 2019

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Dr. Nand Kumar Singh S/o Late Raj Kishore Mahto R/o 202, Shiv Apartment,
Opposite Gayatri Mandir, Near Lohiya Nagar, P.s.- Kankarbagh, Distt.- Patna

... .. Petitioner/s

Versus

1. The State of Bihar through Chief Secretary, Govt. of Bihar, Patna
2. The Principal Secretary Department of Health, Govt. of Bihar, Patna
3. The Joint Secretary Department of Health, Govt. of Bihar, Patna
4. The Under Secretary Department of Health, Govt. of Bihar, Patna
5. The Principal Nalanda Medical College, Patna
6. Head of the Department Department of Orthopedics, Nalanda Medical College, Patna

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Shivendra Kishore, Sr. Adv. Mr. Pankaj Kumar Sinha, Adv. Mr. Paritosh Lall, Adv.
For the Respondent/s	:	Mr. Binod Kumar Yadav (Sc18)

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL ORDER

3 15-10-2019 Heard Mr. Shivendra Kishore, learned senior counsel
and learned counsel appearing on behalf of the State.

2. Petitioner has filed the present writ application for quashing the order contained in Memo No. 146(17) dated 25.2.2019 whereby the petitioner has been put under suspension with effect from 11.8.2018 and his headquarter was fixed at S.K. Medical College, Muzaffarpur.

3. The petitioner has also challenged the Prapatra 'k' issued vide order dated 23.3.2019.

4. Manifold submissions have been advanced by Mr.



Shivendra Kishore in support of his contention that the order of suspension as well as the initiation of departmental proceeding is without jurisdiction. He refers to Rules of Executive Business to contend that appointing authority of the petitioner is the Chief Minister and therefore, only Chief Minister is competent to put the petitioner under suspension. He refers to Rule 9 of Bihar Government Servants (Classification Control & Appeal), 2005 and he submitted that at no point of time the approval of the Chief Minister was obtained either on the issue of suspension of the petitioner or on the issue of initiation of departmental proceeding against this petitioner. He also placed reliance on the judgment of a coordinate bench to contend that departmental proceeding as well as order of suspension is without jurisdiction.

5. The present writ application involves two issues; one is order of suspension and the other is departmental proceeding.

6. The petitioner was put under suspension initially on account of custody in connection with Rosera P.S. Case No. 261 of 2018. Later on, his suspension was revoked on release. Further on 25.2.2019 the petitioner was again put under suspension with effect from 11.8.2018. Prapatra 'k' was issued



on 23.3.2019, and thus the respondents have initiated departmental proceeding. So far as order of suspension of this petitioner is concerned, the suspension cannot continue for infinitum. Earlier the suspension was revoked on his release but vide order dated 25.2.2019, again the petitioner has been put under suspension with effect from 11.8.2018 and thus the suspension has continued for more than 14 months since 11.8.2018.

7. Considering the time framed under 2005 Rules, the Court is not inclined to approve the action of the respondents in continuing suspension of the petitioner for such a long period.

8. Under the aforesaid circumstances, the order of suspension contained in Annexure-13 is quashed. So far as the departmental proceeding is concerned, the Court is of the view enquiry has not come to an end and as such at this stage, the Court deem it fit and proper that the respondents may be directed to conclude departmental proceeding within three months, failing which the departmental proceeding shall also come to an end.

9. The issue with regard to competence of respondents in initiating the departmental proceeding shall be considered either by the enquiry officer/disciplinary authority at this stage



and only after conclusion of the departmental proceeding this issue can be appropriately decided in appropriate proceeding.

10. Respondents are well advised that they may take care of the 2005 Rules and the Rules of Executive Business in the matter of conducting departmental proceeding against this petitioner.

11. In view of the above, the writ petition is allowed to the extent indicated above. The petitioner shall be entitled to reinstatement forthwith with all consequential benefit. It goes without saying that the petitioner shall extend full cooperation in conclusion of the departmental proceeding within the time frame of 3 months from today.

(Anil Kumar Upadhyay, J)

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