

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13415 of 2019

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Shyam Sundar Mishra Son of late Kulanand Mishra, Resident of Village-
Shokhara, P.S. Phulwaria, District- Bhagalpur.

... .. Petitioner/s

Versus

1. The State of Bihar Bihar
2. The Principal Secretary, Agriculture Department, Bihar, Patna.
3. The Director, the Directorate of Agriculture, Bihar, Patna.
4. The District Agriculture Officer, Purnea.
5. The District Agriculture Officer, Samastipur.
6. The Block Development Officer, Banmankhi Purnea.
7. The Managing Director, Bihar State Food and Civil Supply Corporation Ltd., Bihar, Patna.
8. The District Magistrate, State Food Corporation, Samastipur.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Subodh Kumar Jha, Advocate Mr. Pranav Kumar Jha, Advocate
For the Respondent/s	:	Mr. Dhurjati Kumar Prasad (GP 14)

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CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
ORAL JUDGMENT

Date : 26-07-2019

Rejoinder to the counter affidavit has been filed during the course of the argument. Let it be taken on record.

2. Heard the learned counsel for the parties.

3. The petitioner has approached this Court for revocation of his suspension as according to him charge sheet has not been served upon him.

4. Mr. Dhurjati Kumar Prasad, learned GP-14 submits that the charges have already been framed and an enquiry officer has been appointed.



5. Mr. Subodh Kumar Jha, learned counsel for the petitioner submits that merely framing of charge would not be enough and it is of utmost necessity that the same may be served. Without serving the charge, the period which has been prescribed under Section 9 of the *Bihar Government Servants (Classification, Control & Appeal) Rules, 2005* would not come to the aid of the suspending authority, which mandates that if within three months of the suspension, charges are not framed, suspension shall be revoked unless an order is passed renewing the period of suspension along with the reasons to be recorded in writing for the delay in framing of charge sheet for a further period of four months.

6. It has been submitted on behalf of the petitioner that the charge under 'Prapatra Ka' against the petitioner is a communication between two authorities which has till date not been served upon the petitioner. There is no statement in the counter affidavit controverting the aforesaid statement.

7. Nonetheless this Court is not inclined to revoke the order of suspension. The petitioner is about to superannuate. In that event, the suspension would automatically stand revoked.

8. However the petitioner would definitely be entitled to the subsistence allowance during the period of



his suspension provided he furnishes requisite information about his not having been gainfully employed during the period of suspension as mandated in Clause X of the *Bihar Government Servants (Classification, Control & Appeal) Rules, 2005*.

9. In case the petitioner superannuates, his case would be governed in terms of Section 11 of the *Bihar Government Servants (Classification, Control & Appeal) Rules, 2005*.

10. With the aforesaid direction/observation, the writ petition is disposed of.

(Ashutosh Kumar, J)

krishna/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	27.07.2019
Transmission Date	

