

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.18835 of 2019

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Shyam Shankar S/o Late Nageshwar Prasad, Resident of Quarter No. 14,
Kazipur, P.S.- Kadamkuan, Town and District- Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Health, Govt. of Bihar, Patna.
2. Director in Chief (Administration) Health Services, Bihar, Patna.
3. Dr. R.D. Ranjan, Director in Chief (Disease Control) Health Services, Bihar, Patna
4. Regional Additional Director, Health Services, Patna Division, Patna.
5. Civil Surgeon cum Chief Medical Officer, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Banwari Sharma with Shiv Kumar, Advocates
For the Respondent/s	:	Mr.Nagendra Pd. Yadav (SC-23)
	:	Mr. Sudhir Kumar Singh, AC to SC-23

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL ORDER

3 26-09-2019 An order dated 25.07.2019 passed by the Director in-Chief (Disease Control) Health Services, Bihar, Patna (Annexure-10) has been put to challenge in the present writ application, whereby the petitioner has been put under suspension. The petitioner is a Clerk, working in Civil Surgeon Office, Patna.

2. A counter affidavit has been filed on behalf of the State-respondents in which it has been stated that a departmental proceeding has been initiated against him.

3. Learned counsel appearing on behalf of the



petitioner has submitted that there are basically three circumstances when a Government Servant can be put under suspension in exercise of power under Rule 9 of the Bihar Government Servant (Classification, Control & Appeal) Rules, 2005 (hereinafter referred to as 'the Rules), namely, in contemplation of a departmental proceeding, during the pendency of a departmental proceeding or (iii) during the pendency of a criminal case. The impugned order dated 25.07.2019 does not disclose that the said power was being exercised in contemplation of a departmental proceeding, though subsequently a departmental proceeding has been initiated.

4. Learned State counsel, on the other hand, has submitted that since a departmental proceeding was contemplated, the disciplinary authority exercising power under Rule 9 of the Rules has put the petitioner under suspension by the impugned order and there is no illegality in the impugned order.

5. I have carefully perused the impugned order dated 25.07.2019. The order does not disclose that the same was being passed in contemplation of a departmental proceeding. When the order was passed there was admittedly no departmental



proceeding pending against the petitioner. In such view of the matter, the impugned order dated 25.07.2019 requires interference by this Court.

6. The order dated 25.07.2019 is thus, set aside being in breach of the provision contemplated under Rule 9 (1) (a) of the Rules.

7. It goes without saying that since the departmental proceeding has been initiated against the petitioner, it will be open for the disciplinary authority/competent authority to exercise power under Rule 9 (1) (a) of the Rules to put him under suspension, pending departmental proceeding.

8. Consequence of the setting aside of the impugned order shall follow.

(Chakradhari Sharan Singh, J)

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