

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17442 of 2019

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Ram Pravesh Chauhan, Son of Jagdish Prasad Chauhan, Resident of Lane-3-B, Bank Colony, Gola Road, P.S.- Danapur, District- Patna. At present in the office of District Sub Registrar, Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through its Principal Secretary, Prohibition, Excise and Registration Department, Govt. of Bihar.
2. The Additional Secretary, Prohibition, Excise and Registration Department, Govt. of Bihar.
3. The Chief Enquiry Commissioner, General Administrative Department, Government of Bihar.
4. The Enquiry Commissioner (Trap Case)-Cum- Principal Secretary, Revenue And Land Reforms, Government of Bihar.
5. The Deputy Secretary (Presenting Officer) Prohibition, Excise and Registration Department, Government of Bihar.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. N. Singh, Advocate
For the Respondent/s : Ms.Manisha Singh, A.C. to G.P.7

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL JUDGMENT

Date : 18-10-2019

Heard learned counsel for the parties.

2. The petitioner was arrested by Vigilance Investigation Bureau of the State Government on corruption charge in a trap case. He was placed under deemed suspension because of his arrest with issuance of Notification dated 3.9.2014 by the Department of Registration Excise and Prohibition, Government of Bihar. He was working as Sub Registrar at Hilsa in the district of Nalanda when he was arrested. Subsequently, he was released on bail and after his release on bail, he had submitted his joining. His joining was accepted and his order of suspension was revoked with the issuance of Notification dated



21.11.2014 by the Department. However, on the same date, another Notification was issued by the Department placing the petitioner under suspension on the ground of pendency of a criminal case and initiation of a Departmental Proceeding against him. The petitioner has thus remained under suspension so far, for a period of nearly five years. The criminal case and the Departmental Proceeding, both, are pending.

3. Learned counsel appearing on behalf of the petitioner questioning the inaction of the part of the respondents in not reconsidering the decision to put the petitioner under suspension which has continued for nearly five years, has submitted that the petitioner cannot be allowed to remain under suspension for an indefinite period on the ground of pendency of criminal case and the Departmental Proceeding. It has also been argued that in the Departmental Proceeding, the Inquiry Officer has submitted his report on 16.11.2018 but so far no decision has been taken by the disciplinary authority on the said report of the Inquiry Officer.

4. Learned A.C. to G.P. 7 has on the other hand submitted that the State Government has jurisdiction to keep an employee under suspension during the pendency of a criminal case. She has argued referring to the order of suspension dated 21.11.2014 that the State Government has exercised powers under Rule 9 (1) (a) and (c) of Bihar Government Servants (Classification, Control & Appeal) Rules, 2005.

5. Rule 9 (1) of the Rules empowers the appointing authority or any authority to which the appointing authority is



subordinate or the disciplinary authority or any other authority empowered in that behalf by the Government by general or special order, to place a government servant under suspension when a disciplinary proceeding against the Government Servant is contemplated or is pending (clause-a) or a case against such Government Servant in respect of any criminal offence is under investigation, enquiry or trial and the competent authority is satisfied that it is expedient to suspend the Government Servant in public interest (clause-c).

6. It is evident on reading of rule 9 (1) (c) of the Rules that the authority of the disciplinary authority/appointing authority to place Government Servant under suspension during the pendency of a criminal case is undisputed. Clause (a) of sub rule 6 of Rule 9 states that an order of suspension made or deemed to have been made under this Rule shall continue to remain in force until it is modified or revoked by the competent authority. Clause (b) of sub rule 6 authorises the competent authority to allow an order of suspension to continue till termination of Departmental and the Criminal Proceedings. Sub rule 7 of Rule 9 requires framing of charge sheet within three months from the date of issue of suspension order. It is not the petitioner's case that charge sheet has not been framed during the requisite period as contemplated under sub rule 7 of Rule 9. It is only in case the charge sheet is not framed within the stipulated period or extended period as



contemplated under sub rule 7 that a suspension order will be required to be compulsorily revoked.

7. Considering the facts and circumstances of the matter, particularly in view of the fact that the order of suspension is continuing for nearly five years, this writ application is disposed of with an observation that let the disciplinary authority/competent authority review the prolonged suspension of the petitioner and take a decision within a period of two months from the date of receipt/production of a copy of this order.

8. The Court expects that the disciplinary authority shall take some decision on the report of the Inquiry Officer expeditiously, in accordance with law.

(Chakradhari Sharan Singh, J)

S.Ali/-

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	21/10/2019
Transmission Date	N.A.

