

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5692 of 2018

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Md. Naseem Ansari, son of late Wajid Ansari, resident of Village- Bhavdepur,
Ward No. 23, P.S. and District- Sitamarhi.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Agriculture Department,
Government of Bihar, Patna.
2. The Principal Secretary, Agriculture Department, Govt. of Bihar, Patna.
3. The Director, Agriculture Department, Govt. of Bihar, Patna.
4. The Joint Director, Agronomy, Patna Division, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Md. Anisur Rahman, Advocate
For the Respondent/s : Mr. Dhurjati Kumar Prasad-GP-14

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CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
ORAL JUDGMENT

Date : 18-04-2019

The petitioner had approached this Court earlier vide C.W.J.C. No. 1683 of 2017, seeking quashing of an order dated 19.02.2016 issued by the Director, Agriculture Department, Government of Bihar, Patna, suspending the petitioner under the provisions of Rule 9(3)(ii) of the Bihar Government Servants (Classification, Control and Appeal) Rules, 2005. However, the petitioner was directed to make a representation before the Director, Agriculture Department for revocation of his suspension, which representation had to be decided within a period of two months from the date of



receipt of the same.

2. Pursuant to and strengthened by the aforesaid observation of this Court, the petitioner made a representation before the Director, Agriculture Department for revocation of his suspension. The Director, Agriculture Department, by order dated 02.02.2018 (contained in Annexure-9 to the writ petition) has rejected such representation but without giving any reason. All that the order indicates is that the competent authority has taken a decision that the request of the petitioner for revocation of his suspension would be considered only after the Vigilance Department takes a final decision in that matter. No reason, it has been urged, has been assigned for allowing the suspension of the petitioner to continue during the pendency of the department proceeding. The order also does not indicate whether any correspondence has been made with the Vigilance Department with respect to ascertaining the time limit within which the proceeding against the petitioner would be concluded. The order, therefore has been assailed on the ground of being without any reason.



3. The petitioner was suspended on 04.11.2015 for being involved in a Vigilance/criminal case.

4. Mr. Dhurjati Kumar Prasad, learned advocate for the State, however has supported the order impugned on the ground that no other reason was required to be passed by the competent authority, specially in view of the fact that sanction has been obtained for the prosecution of the petitioner, who is facing criminal prosecution. He further submits that the petitioner has a remedy of preferring a review against the aforesaid order in view of Section 24 of the Bihar Government Servants (Classification, Control and Appeal) Rules, 2005.

5. From the perusal of the order impugned, it appears that the request of the petitioner for revoking the suspension has been rejected only on the ground that the vigilance case is pending. No other reason has been assigned for continuing the suspension of the petitioner. The order also does not take into account as to for how long the departmental proceeding shall continue and what is the stage of the criminal prosecution against the petitioner.



6. The provision of Section 9 (ii) of the Bihar Government Servants (Classification, Control and Appeal) Rules, 2005 makes it incumbent upon the authority suspending an employee to accord reason for continuing the suspension till the termination of all or any such proceeding against that employee.

7. For the reason of the order impugned being non-speaking so far as reasons for continuing with the suspension of the petitioner is concerned, the same is set aside.

8. The petitioner is directed to make a fresh representation before the Director, Agriculture Department, Government of Bihar, Patna (respondent No. 3) indicating that he has remained under suspension for more than three years and there has not been any substantial progress either in the criminal prosecution or in the departmental proceeding which is pending against him, within a period of four weeks from today. On receipt of such representation, the Director, Agriculture Department, Government of Bihar, Patna (respondent No. 3) shall apply himself to the facts of this



case and consider the necessity and the reasons for keeping the petitioner under continued suspension and shall pass a reasoned order within a period of six weeks thereafter.

9. With the aforesaid observation/direction, the writ petition stands disposed off.

(Ashutosh Kumar, J)

Shageer/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	19/04/2019

