

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.19259 of 2019

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Akash Kumar Son of Triyogi Prasad, Resident of Flat No. 304, Ravindra Sri Apartment, Mahesh Nagar, Road No. 3, Patna, P.S.-Patliputra, District-Patna, at Present Commercial Tax officer, Posted at Vigilance Bureau, East Division, Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through the Commissioner, Commercial Taxes Department, Bihar, Patna.
2. The Commissioner Commercial Taxes Department, Bihar, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Sharad Kumar Sinha, Advocate
For the Respondent/s	:	Mr.Lalit Kishore (AG)
		Ms. Prachi Pallavi, AC to learned AG

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL ORDER

3 04-11-2019 Heard learned counsel for the parties.

2. A departmental proceeding has been initiated against the petitioner with the issuance of a charge-sheet on 02.08.2019. He was posted, at the relevant point of time, as Commercial Tax Officer, Bhabua Circle Bhabua. He has been charged of having inappropriately released a vehicle (truck), which was found carrying articles (edible oil) without any valid paper or payment of requisite taxes, thus causing loss to the State revenue.

3. Learned counsel appearing on behalf of the petitioner has submitted that even if what has been alleged in the charge memo is treated to be correct, no misconduct can be



said to be made out against him, warranting disciplinary action, and, therefore, this Court may interfere, exercising power of judicial review under Article 226 of the Constitution of India, as no purpose would be served, if the disciplinary proceeding is allowed to continue.

4. Learned counsel representing the respondents-State of Bihar, on the other hand, has submitted that the defence, which the petitioner has taken in the writ application to question the very initiation of a departmental proceeding can be taken by him in course of departmental inquiry before the enquiry officer or before the disciplinary authority, as the case may be. She contends that this writ application is premature and considering the limitation of judicial review under Article 226 of the Constitution of India, this Court may not interfere at this stage. She has also submitted that the disciplinary authority shall ensure expeditious disposal of the departmental proceeding in question.

5. Considering the facts and circumstances, this application is disposed of with a direction that let the departmental proceeding initiated against the petitioner be concluded within six months from the date of its initiation. The plea which the petitioner has taken in the present writ



application shall be considered by the disciplinary authority/Inquiry Officer, if taken by him either in his written statement of defence or in any other form before the Inquiry Officer/the disciplinary authority.

6. I have not gone into the merits of the petitioner's contention and it is, accordingly, made clear that no observation made in this order shall be treated to be an expression on the merit of the charge framed against the petitioner or his defence/explanation to question the sustainability of the charge.

7. This application stands disposed of with the observation as above.

(Chakradhari Sharan Singh, J)

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