

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.20165 of 2019

Janakdeo Ram S/o Ranjit Ram Panchayat Secretary, Bhagwanpur Hat, Siwan,
resident of Village- Khedaya Pipra, P.S.- Andar, District- Siwan.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Panchayati Raj Department, Bihar, Patna.
2. The Principle Secretary, Panchayati Raj Department, Government of Bihar, Patna.
3. The Director, Panchayati Raj Department, Government of Bihar, Patna.
4. The District Magistrate, Siwan.
5. The Deputy Development Commissioner Cum Chief Executive Officer, Zila Parishad, Siwan.
6. The Deputy Collector Land Reforms cum the Conducting Officer, Maharajganj, Siwan.
7. The Sub- Divisional Officer, Siwan, Sadar/Maharajganj.
8. The Block Development Officer, Bhagwanpur Hat, Siwan.
9. The District Panchayati Raj Officer, Siwan.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Prashant Kashyap, Advocate
For the State	:	Ms.Archana Meenakshee (G.P.-6)
For the Respondent No.5:	:	Mr. Nikesh Kumar, Advocate

CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL ORDER

2 18-11-2019 Heard learned counsel for the parties.

The petitioner is a Panchayat Secretary, presently under suspension. He was arrested in a criminal case by the Police leading to his deemed suspension. Once he was released on bail, his order of deemed suspension was revoked but he was again placed under suspension with issuance of the subsequent order dated 18.03.2016, in exercise of power under Rules 9(1)



(c) of the Bihar Government Servant (Classification Control and Appeal) Rules, 2005 (hereinafter referred to as the Rules). The said order dated 18.03.2016 is under challenge in the present writ application.

Learned counsel appearing on behalf of the petitioner has submitted that in the departmental proceeding, the Inquiry Officer has submitted his report but the disciplinary proceeding has not been concluded so far, as no order has been passed by the disciplinary authority. He has further submitted that the petitioner is not being paid his subsistence allowance during the period of his suspension.

The Rules confer power on the disciplinary authority to place a government servant under suspension during pendency of a criminal case. The impugned order dated 18.03.2016 cannot be said to be beyond jurisdiction. At the same time, continuance of an order of suspension for an indefinite period may be against public interest which can and should be looked into by the disciplinary authority. In any view of the matter, government servant under suspension has a right to receive subsistence allowance in accordance with provisions governing his service condition.

Considering the facts and circumstances, as noted



above, this writ application is *disposed of* with a direction that let the District Magistrate, Siwan take a decision as to whether the order of suspension should be allowed to continue or not. He will have to ensure that the petitioner is paid subsistence allowance in accordance with Rules, within a period of two months from the date of receipt/production of copy of this order.

(Chakradhari Sharan Singh, J)

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