

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17265 of 2017

=====

Ram Bihari Pd. Verma Son of Late Ram Narayan Prasad, resident of Village-
Turkauliya, Brahm Tola, Police Station- Turkauliya, District- East
Champaran.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. The District Magistrate, East Champaran, Motihari.
3. The District Panchayat Raj officer, East Champaran, Motihari.
4. The Sub-Divisional Officer, Sikrahana, East Champaran, Motihari.
5. The Block Development Officer, Dhaka, District East Champaran, Motihari.
6. The Block Development Officer, Harsidhi, District- East Champaran, Motihari.

... .. Respondent/s

=====

Appearance :

For the Petitioner/s : Mr.Jitendra Kumar Roy
For the Respondent/s : Mr.Pushkar Narayan Shahi -Aag6

=====

CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL ORDER

4 19-11-2019 The petitioner is a Panchayat Secretary and at the relevant point of time was posted at Harsiddhi in the district of Motihari. By an order dated 08.02.2017, passed by the District Panchayat Raj Officer, Motihari, he was placed under suspension. The said order dated 08.02.2017 is under challenge in the present writ application which was filed on 23.11.2017.

Till filing of the writ application on 23.11.2017 no departmental proceeding was initiated against him and admittedly no charge sheet was framed, which is evident from the counter affidavit filed on behalf of the respondents. It appears from the counter affidavit filed on behalf of the respondents that the charge sheet was



framed on 03.04.2018 and was sent for approval to the District Magistrate, Motihari, who approved framing of charge sheet on 08.10.2018. This is not in dispute that the District Magistrate is the disciplinary authority. Rule-9 of the Bihar Government Servant (Classification, Control and Appeal) Rules deals with the manner and circumstance in which an order of suspension can be passed. Rule-9(1)(d) of the rule empowers the appointing authority or any authority to which appointing authority is subordinate or the disciplinary authority or any other authority empowered in that behalf by the State Government to place a government servant under suspension if a disciplinary proceeding is pending or contemplated against a government servant. Sub-rule (7) of Rule-9 requires that the charge sheet must be framed within three months from the date of issue of suspension order failing which, on expiry of three months, the suspension order shall be revoked unless the authority which issued the suspension order, passes an order renewing the suspension, along with reasons to be recorded in writing for the delay in framing of charge sheet, for further period of four months. The proviso to Sub-rule (7) of Rule-9 requires that after expiry of extended period of four months, the suspension order shall stand revoked, if the charge sheet is not framed.

The petitioner was put under suspension on 08.02.2017. No charge sheet was framed in the year 2017. Charge sheet was framed by the District Panchayat Raj Officer in April 2018 which



was approved by the District Magistrate in October, 2018.

In such circumstance, in my opinion, the impugned order of suspension stood revoked by operation of sub-rule(7) of Rule-9 of the Bihar Government Servant (Classification, Control and Appeal) Rules, 2005. It is declared accordingly. The order of suspension shall be treated to have been revoked, three months immediately after the issuance of the impugned order of suspension. The petitioner shall be entitled to all consequential benefits arising out of revocation of suspension by operation of sub-rule(7) of Rule-9 of the Rules. The respondents shall be at liberty to proceed with the departmental proceeding in accordance with law and conclude the same expeditiously.

This application is allowed with the observation as noted above.

(Chakradhari Sharan Singh, J)

Prakash Narayan /-

U			
---	--	--	--

