

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.20164 of 2019

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Madan Mohan Jha s/o late Satish Chandra Jha, r/o Village- Bhawanipur, P.O.
and P.S.- Barari, District- Katihar.

... .. Petitioner/s

Versus

1. The State of Bihar through the Deputy Inspector General of Police, Central Area, Patna.
2. Deputy Inspector General of Police, Central Area, Patna.
3. Senior Superintendent of Police, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Sanjeev Kumar Mishra, Advocate
For the Respondent/s : Mr. Md. Nadim Seraj (G.P.-5)

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL ORDER

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

The petitioner has challenged the order dated 03.03.2018 passed by the Deputy Inspector General of Police, Central Area, Patna, whereby he has been placed under suspension because of registration and pendency of a criminal case against him.

Learned counsel appearing on behalf of the petitioner contends that till date neither any departmental proceeding has been initiated against him nor the investigation has been completed with the submission of charge sheet in the criminal case. He, therefore, argues that the order of suspension requires interference by this Court.



The petitioner is a Sub-Inspector of Police and on the alleged date of occurrence, when he was on duty on the occasion of Holi festival, he was found in inebriated condition creating ruckus. The Breath Analyzer Test gave positive result, giving rise to registration of Phulwarisharif (Janipur) Police Station Case No.155 of 2018 for the offence punishable under Section 37(c) of the Bihar Prohibition and Excise Act, 2016. He was arrested, immediately. Thereafter, it was in the background of the said fact that the order of suspension was issued.

Under the provision of Bihar Government Servant (Classification Control and Appeal) Rules, 2005 a government employee can be put under suspension on ground of pendency of a criminal case. However, the authorities have jurisdiction to revoke an order of suspension pending a criminal case in appropriate cases if considered proper.

Considering the facts and circumstances of the case, this writ application is *disposed of* with a direction that let the disciplinary authority reconsider as to whether continuance of the petitioner under suspension is imperative and is in public interest or not and whether any departmental proceeding should be initiated against him. A decision must be taken in this regard within a period of two months from the date of



receipt/production of copy of this order.

It is clarified that an employee has a right to receive subsistence allowance during the period when he is under suspension, in accordance with rule governing his service condition. The disciplinary authority shall ensure that the petitioner is paid his subsistence allowance during the period of his suspension in accordance with law, forthwith.

(Chakradhari Sharan Singh, J)

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