

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1268 of 2020

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Baijnath Yadav, Son of Ramadhar Yadav, Resident of Village- Sinha near Panchayat Bhawan, O.P. + P.O.- Sinha, P.S.- Barhara, District- Bhojpur (Arah).

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Education Dept., Govt. of Bihar, Patna.
2. The Director, Primary Education, Govt. of Bihar, Patna.
3. The Director, Midday Meal Programme, Govt. of Bihar, Patna.
4. The District Panchayat Raj Officer, Bhojpur, Arach.
5. The District Programme Officer (Establishment) Cum District Programme Officer (Midday Meal Programme) Bhojpur, Arach.
6. The Panchayat Secretary Cum Teacher Employment Unit, Gram Panchayat, Sinha Barhara, Bhojpur.
7. The District Education Officer, Bhojpur, Arach.
8. The Block Education Officer, Barhara, District- Bhojpur.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Pawan Kumar Singh, Advocate
For the Respondent/s	:	Mr.Prabhakar Jha (GP-27)
For MDM	:	Mr.Girijesh Kumar, Advocate

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL ORDER

2 18-02-2020 Heard learned counsel for the petitioner and the respondents.

The petitioner is aggrieved by the order dated 22.07.2019, as contained in Annexure-1, whereby the petitioner was put under suspension along with other two Panchayat Teachers.

Learned counsel for the petitioner submits that suspension of the other two have been revoked, but the



petitioner has been treated different view.

Suspension is not cessation of master and servant relationship. Individual is only put off the work during the period of suspension. The law in this regard is well settled by a Constitution Bench of the Apex Court in the case of **the Management of Hotel Imperial vs Hotel Workers' Union**, reported in **1959 AIR 1342**.

Learned counsel for the petitioner submits that till date the department has not framed charge and petitioner has not been proceeded in the departmental proceeding.

Suspension in contemplation of departmental proceeding is permissible, but the authorities cannot put the individual under suspension without departmental proceeding for in finitum. This petitioner was put under suspension approximately seven months back, but till date neither the charge has been framed nor served.

Learned counsel for the petitioner submits that the petitioner has not been paid even subsistence allowance.

If it is a fact that petitioner has not been paid subsistence allowance for the period, the petitioner was put under suspension, then that will vitiate the entire departmental proceeding in view of the law laid down by the Apex Court in



the case of **State of Maharashtra Vs. Chandrabhan Tale**, reported in **AIR 1983 SC 803** and reiterated in **Capt. M. Paul Anthony vs Bharat Gold Mines Ltd. & Anr.**, reported in **(1999) 3 SCC 679**.

If the subsistence allowance of the petitioner is not paid within a period of 15 days from the date of receipt/production of a copy of this order, the order of suspension shall cease to exist.

If the subsistence allowance of the petitioner is paid then the respondents may be allowed to conclude the departmental proceeding at the earliest against the petitioner, but in no case beyond a period of four months from the date of receipt/production of a copy of this order.

With the aforesaid, this application stands disposed of.

(Anil Kumar Upadhyay, J)

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