

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.24020 of 2018

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Ghulam Mustafa Ansari, Son of Late Abdul Aziz Ansari, Resident of Flat No. 402, Makkah Tower, Samanpura, Raja Bazar, Patna-800014.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, General Administration Department, Government of Bihar, Patna.
2. The Principal Secretary, General Administration Department, Government of Bihar, Patna.
3. Joint Secretary, General Administration Department, Government of Bihar, Patna.
4. District Magistrate, Madhubani.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Raj Nandan Prasad
For the Respondent/s : Mr.Sheo Shankar Prasad- Sc8

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA
ORAL ORDER

3 09-06-2020 Heard Mr. Raj Nandan Prasad, the learned counsel appearing on behalf of the petitioner and Mr. Sheo Shankar Prasad, S.C.-8 appearing on behalf of the State through video conferencing.

The petitioner in this writ petition seeks following reliefs:

(i) For quashing of the order contained in Memo No.15674, dated 23.11.2016, issued by the Deputy Secretary, General Administration Department, Government of Bihar putting the petitioner under suspension w.e.f. 27.10.2016.

(ii) To quash the entire departmental proceeding or



keep the same in abeyance until outcome of criminal case instituted against the petitioner vide Vigilance P.S. Case No.116 of 2016, and

(iii) To any other appropriate writ or directions.

The vigilance raided the office of the petitioner on the charge of taking bribe and instituted the case. At the same time, departmental proceeding has already been initiated.

Mr. Raj Nandan Prasad, learned counsel for the petitioner submits that the petitioner is under suspension since 23.11.2016. Even the departmental proceeding has not been initiated properly. Charge memo was submitted on the petitioner on 07.02.2017 but the list of witnesses and the list of documents have not been appended to the memo of charge and that amounts to non-providing of sufficient opportunity to the petitioner even though the departmental proceeding has not yet started. On the other hand, the learned counsel for the State submits that in view of provisions as contained in Section 23 of the Bihar C.C.A. Rules, 2005, there is provision of appeal even against the order of suspension. The departmental proceeding has already been initiated against the petitioner and, therefore, it would be proper to direct the Enquiry Officer to conclude the departmental proceeding within six months from the date of



production of this order.

Having considered the facts and submissions of both sides, I find that for the last more than 3½ years even after putting the petitioner under suspension, the departmental proceeding has not yet been concluded. The petitioner cannot be put under suspension for indefinite period on the ground of pendency of departmental proceeding.

In this view of the fact, I dispose of this writ petition with a direction to the Enquiry Officer to conclude the departmental proceeding within six months from the date of receipt/production of this order after affording full opportunity to the petitioner to defend his case and if the departmental proceeding is not concluded within six month, the suspension of the petitioner shall be deemed to have been revoked.

With the aforesaid direction, this writ petition is disposed of.

(Prabhat Kumar Jha, J)

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