

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.21929 of 2019

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Arun Mahto Son of Late Nathun Mahto Resident of Village- Arai,
Mustafapur, Police Station- Daniyama, District- Patna.

... .. Petitioner/s

Versus

1. The State of Bihar Through the Principal Secretary, Excise Department, Patna.
2. The District Magistrate Patna.
3. The Senior Superintendent of Police Patna.
4. The Block Development Officer Khusrupur.
5. The Circle Officer Khushrupur.
6. The Officer-Incharge Daniyama.
7. The S.D.O. Patna City.

... .. Respondent/s

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Appearance :

For the Petitioner/s : None
For the Respondent/s : Mr.Manish Kumar (Gp4)

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

4 24-09-2020 The present petition has been taken up for consideration through the mode of Video Conferencing in view of the prevailing situation on account of COVID-19 Pandemic.

No body is appearing for the petitioner since past two dates, however Sri Manish Kumar-GP 4, the learned counsel for the respondent-State has been appearing regularly.

The present writ petition has been filed for holding the suspension order of the petitioner to be illegal as also for payment of the subsistence allowance.

The learned counsel for the State, by referring to the



counter affidavit filed on behalf of respondent no. 6, has submitted that the petitioner, being a government employee was caught red-handed and it was found that he had consumed illicit liquor which was also confirmed upon Breath Analyser Examination and accordingly, an F.I.R. bearing Daniyawa PS case no. 166 of 2018 dated 14.12.2018 under Section 37(B) and 37(C) of the Bihar Prohibition and Excise Act, 2016 was registered and the petitioner was arrested, whereafter he was forwarded to judicial custody. Accordingly, the petitioner was put under suspension.

The learned counsel for the respondent-State has also referred to the counter affidavit filed on behalf of respondents no. 2, 4, 5 and 7 and it has been submitted that in view of the aforesaid FIR dated 14.12.2018, the District Magistrate, Patna vide Memo no. 58-1/18-179 dated 23.01.2019 has suspended the petitioner and his Headquarters has been fixed at the Sub-Divisional Office, Patna City and it has also been directed to pay subsistence allowance to the petitioner during the period of his suspension. Subsequently, the District Magistrate, Patna vide Memo dated 24.04.2019 had directed the Circle Officer, Daniyawa to frame charges and initiate departmental proceedings, whereafter departmental proceedings has also been initiated vide letter dated 10.01.2020 issued by the Circle



Officer, Daniyawa and A.D.M. (Departmental Enquiry), Patna has been made the conducting officer. The A.D.M. (Departmental Enquiry)-cum-Conducting Officer, Patna has thereafter, started the inquiry proceedings and has issued Memo dated 04.03.2020 to the petitioner herein seeking his show cause reply, whereafter the petitioner has also submitted his reply on 23.03.2020. It is further submitted that the departmental inquiry as also the disciplinary proceedings initiated against the petitioner is likely to be completed very soon. Nonetheless, it is submitted that the Circle Officer, Daniyawa vide Memo dated 24.09.2019 has already passed order for payment of subsistence allowance to the petitioner herein with effect from the month of January, 2019 and approval has been made for payment of a sum of Rs. 14,533/-.

Having regard to the facts and circumstances of the case, I deem it fit and appropriate to dispose off the present writ petition with a direction to the respondents to complete the departmental proceedings, initiated against the petitioner herein within a period of 03 months from today, failing which the suspension order *qua* the petitioner herein shall stand revoked automatically. It is further directed that in case, the outstanding amount of



subsistence allowance has not been paid to the petitioner herein, the same be paid within a period of two weeks from today, failing which the District Magistrate, Patna shall not draw his salary.

Let a copy of this order be transmitted to the District Magistrate, Patna by the registry of this Court forthwith.

(Mohit Kumar Shah, J)

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