

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.22014 of 2019

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Amitesh Mishra Son of Sri Suresh Mishra Resident of 86-A Gandhipath,
Nehru Nagar, P.S.- Patliputra, District- Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Social Welfare Department, Old Secretariat, Patna.
2. Joint Secretary, Social Welfare Department, Old Secretariat, Patna.
3. The Collector, Purnea.
4. Joint Director, Social Welfare Department, Patna, Bihar.
5. The Director, Social Welfare Department, Old Secretariat, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Binod Kumar Mishra
For the Respondent/s : Mr.Gyan Prakash Ojha (Ga7)

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

4 08-06-2020 The present writ petition has been taken up for consideration through the mode of Video conferencing in view of the prevailing lock-down on account of COVID 19 Pandemic, requiring social distancing.

Heard Sri Kamal Nayan Choubey, the learned Senior Counsel for the petitioner and Sri Gyan Prakash Ojha, the learned counsel for the State.

The present petition has been filed for quashing the order dated 4.4.2019 passed by the Joint Director, Social Welfare Department, Government of Bihar by which the petitioner has



been put under suspension and for restraining the Joint Director to take any action on the letter dated 15.2.2019 issued by the Collector regarding the attitude and the behavior of the petitioner. It is alleged that the notification dated 9.6.2018 issued by the Principal Secretary, Home Department, has not been followed in the present case inasmuch as in the present case, an officer subordinate to the petitioner, on the oral order of the Collector, has lodged an FIR against the petitioner for misconduct under Section 352 of the Indian Penal Code.

The learned Senior Counsel for the petitioner has argued that the action of the respondents-State is in violation of ***Rule 9(7) of the Bihar Government Servant (Classification, Control & Appeal) Rules, 2005***, which postulate as follows:-

“9. Order of Suspension-(7) 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 the order renewing the suspension alongwith reasons to be recorded in writing for the delay in framing of charge-sheet for a further period



of four months :

Provided that after the expiry of extended period of four months the suspension order shall stand revoked if the charge-sheet is not framed.”

It is thus submitted by the learned Senior Counsel for the petitioner that since no charge-sheet was framed within a period of three months from the date of issue of suspension order, the suspension order should have been revoked, however, since the same has not been revoked by the respondents-State, it is liable to be set aside by this Court.

The learned counsel for the respondents-State has vehemently opposed the prayer of the petitioner for quashing of the order of suspension dated 4.4.2019 and has submitted that the charge-sheet has already been framed against the petitioner herein and the requisite departmental proceeding has been initiated vide resolution dated 16.7.2019, hence, there is no need of quashing the order of suspension inasmuch as the respondents-State is making all endeavours to complete the pending departmental proceeding expeditiously, subject to cooperation by the petitioner.

At this juncture, this Court had put a query to the learned



Senior Counsel for the petitioner as to whether the petitioner would be satisfied if this Court directs that in case, the departmental proceeding is not completed within a period of six months from today, the order of suspension shall stand revoked automatically, to which the learned Senior Counsel for the petitioner has submitted that the period of completion of the departmental proceeding, as suggested by this Court, be reduced.

Having regard to the facts and circumstances of the case, this Court deems it fit and proper to dispose of the present writ petition with consent of the parties with a direction to the Respondents-State to complete the ongoing departmental proceeding, initiated vide resolution dated 16.7.2019, and pass the final orders therein within a period of five months from today, failing which it is directed that the order of suspension dated 4.4.2019 shall stand revoked automatically.

The present writ petition stands disposed of on the aforesaid terms.

(Mohit Kumar Shah, J)

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