

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.24415 of 2019**

Pradyumna Sharma, Son of Late Sidhnath Sharma, Resident of 301, Rana Residency Apartment, Rai Jee Gali, East Boring Road Canal Road, Patna, P.S.-Budha Colony, District-Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through the Secretary, Public Health and Engineering Department, Bihar, Patna.
2. The Joint Secretary, Public Health and Engineering Department, Bihar, Patna.
3. The Engineer-in-Chief-cum-Special Secretary, Public Health and Engineering Department, Bihar, Patna.
4. The Executive Engineer, Public Health Division, Sasaram.
5. Chief Engineer, Public Health and Engineering Department, Patna Range, Patna.

... .. Respondent/s

**Appearance :**

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|----------------------|---|------------------------------------------------------------|
| For the Petitioner/s | : | Mr. P.K. Shahi, Sr. Advocate<br>Mr. Mukesh Kumar, Advocate |
| For the State        | : | Mr. Upendra Pratap Singh, A.C. to S.C.-4                   |

**CORAM: HONOURABLE JUSTICE SMT. ANJANA MISHRA**  
**ORAL JUDGMENT**

**Date : 08-01-2020**

Heard learned Senior Counsel appearing on behalf  
of the petitioner and learned counsel appearing on behalf of the  
State.

The petitioner seeks quashing of the notification bearing Memo No. 1425 dated 27.08.2019 issued by the Respondent No. 2 whereby and whereunder the petitioner has been placed under suspension in exercise of power conferred under Rule 9(1)(a) of the Bihar Government Servants (Classification, Control and Appeal) Rules, 2005 with all consequential monetary benefits accruing thereto.

Learned Senior Counsel for the petitioner submits



that though the petitioner was placed under suspension on 27.08.2019, till the date of the filing of the writ application, the petitioner had not been served with any chargesheet nor had the same been issued in accordance with the provisions of the Rule 9(7) of the Bihar CCA Rules, 2005. He, thus, submits that the petitioner's suspension cannot continue in view of the fact that the matter is no longer *res integra* and has been decided in a catena of judgments by this Court including the Full Bench judgment in the case of ***State of Bihar Vs. Gyan Kumar Ram*** reported in ***2009(4) PLJR 272***. He further submits that the aforementioned Full Bench judgment has been followed consistently at all stages by this Court and the petitioner's case falls squarely within the ambit of the ratio of the decisions aforementioned. He further submits that even as late in 2017 in the case of ***Sharat Chandra Jha vs. State of Bihar*** reported in ***2017 (1) PLJR 200***, the same principle has been reiterated. It is further submitted that the petitioner continued to remain under suspension beyond the period of 90 days which is contrary to the provisions as contained in the CCA Rules and, therefore, by the efflux of time, the petitioner's suspension order automatically stood revoked and he may be permitted to join his duties. He further submits that it is apparent from Annexure-7 to



the supplementary affidavit filed today in Court that the order framing charges has been passed only on 02.12.2019 which is definitely beyond the period as stipulated in Rule 9(7) of the CCA Rules, 2005. Learned Senior Counsel further points out that in view of the fact that order framing charges has been passed much beyond the period as envisaged, the petitioner's order of suspension may be quashed and he may be permitted to join his post with all monetary benefits.

The aforementioned position has not been controverted by learned counsel appearing on behalf of the State and he submits that in the event of there being no order continuing the suspension order, the petitioner's case does, in fact, fall within the ambit of the aforesaid decisions as cited at the Bar and, therefore, the petitioner's suspension order may be revoked and the charges will continue in accordance with law.

Having considered the entire facts and circumstances of the case and particularly because the petitioner has categorically averred in his paragraph No. 20 that the suspension order of the petitioner is dated 27.08.2019 and the three months statutory period expired on 24.11.2019, and that till 24.11.2019, the petitioner had not been served with any chargesheet nor had any order been passed continuing the order



of suspension, the order of suspension, in the opinion of this Court, has in itself become inoperative.

However, the impugned order dated 27.08.2019 contained in Memo No. 1425 issued under Rule 9(1)(a) of the Bihar Government Servants (Classification, Control and Appeal) Rules, 2005 stands quashed with liberty to the respondents to proceed in accordance with law. The petitioner shall also be entitled to the monetary benefits which would have been available to him.

The application stands allowed.

**(Anjana Mishra, J)**

Saif/-

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