

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2074 of 2020

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Amar Singh S/o-Singeshwar Singh Resident of Village-Gadhi Rampur, PS-Naya Ramnagar, District-Munger.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary Govt. of Bihar, Patna.
2. D.G. of Police Bihar, Patna.
3. S.P. Bhagalpur
4. Inspector Cum Special Work Officer Gopniya Sakha Bhagalpur Cum Enquiry Officer of Bhagalpur District Department Proceeding/enquiry no.- 81/2019, Bhagalpur.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Ibrahim Kabir
For the Respondent/s : Mr. S.K.Sharma, AC to AAG 3

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CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

2 20-02-2020 Counsel for the petitioner has submitted that the petitioner is facing criminal prosecution in Sabour P.S. Case no. 147 of 2015. Sessions Trial no. 60 of 2016 (SC/ST) is going in the court of learned 2nd Additional District and Sessions Judge-cum- Special Judge, Bhagalpur.

During pendency of the criminal proceeding, petitioner has prayed that Departmental Enquiry no. 81 of 2019 being conducted against the petitioner who is a constable, be stayed.

Petitioner as per pleadings remained in judicial custody in connection with criminal prosecution from 28.07.2015 to 23.01.2019. After grant of bail, he claims to have



joined duty on 24.01.2019. It is further case of the petitioner that on 10.03.2019 his suspension has been revoked.

Petitioner has not placed on record the charge memo on basis of which he asserts that Departmental Enquiry no. 81 of 2019 is being conducted against him. It is also not petitioner's case that he has appeared in the proceeding and availed of opportunity to make his submission before Enquiry Officer. There is nothing on record to show that the petitioner has requested the Enquiry Officer for grant of subsistence allowance or for staying the proceeding till conclusion of Sabour P.S. Case no. 147 of 2015 in Sessions Trial no. 60 of 2016 (SC/ST) pending in the court of learned 2nd Additional District and Sessions Judge-cum- Special Judge, Bhagalpur.

Without availing the opportunity granting to him in the departmental enquiry or without requesting the Enquiry Officer to direct for payment of subsistence allowance or to consider his prayer for stay of the departmental proceeding, he has directly rushed to this court. Presuming that he would not get relief in the departmental enquiry, this Court is not inclined to exercise its discretionary jurisdiction in favour of the petitioner. The petitioner would be at liberty to appear before the Enquiry Officer and make his request for payment of



subsistence allowance, stay of the proceeding or raising any other plea in accordance with law. Enquiry Officer needless to say that would be legally obliged to consider the request of the petitioner in accordance with law without being prejudiced by rejection of the instant writ petition in any manner.

Writ petition is dismissed.

(Madhuresh Prasad, J)

s.hassan/-

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