

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8478 of 2020

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Yogendra Kumar Son of Sri Parmeshwar Paswan Resident of Village-
Salarpur, Post Office- Amarpur via Surajgarha, District- Lakhisarai. at present
behind Aara Machine, West Patel Nagar, PS- Shahtri Nagar, District- Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Road Construction Department, Government of Bihar, Patna.
2. The Secretary, Urban Development and Housing Department, Government of Bihar, Patna.
3. The Special Secretary, Road Construction Department, Government of Bihar, Patna.
4. The Special Secretary, Urban Development and Housing Department, Government of Bihar, Patna.
5. The Managing Director, Bihar Urban Infrastructure Development Corporation Limited (BUIDCO), Near Rajapur Pul, West Boring Canal Road, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Ranjeet Kumar, Advocate
For the Respondent/s : Mr. Ranjay Kumar Singh, AC to SC-6

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CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
ORAL ORDER

3 18-02-2021

I.A. No. 01 of 2021

This interlocutory application has been filed for amending the prayer portion of the main writ petition and adding one another prayer i.e. prayer no. 1(iii).

For the reasons stated in the interlocutory application and considering the submissions, this interlocutory application is allowed and it will be treated as a part of the writ petition.

Heard learned counsel for the petitioner and



learned counsel for the respondents.

The petitioner has approached this Court for the following reliefs:

“i) For setting aside the Notification contained in Memo No. 11/2020-1247 (s) dated 14.02.2020, whereby the petitioner has been suspended under Rule 9 (1) (A) of the Bihar Government Servant (Classification, Control and Appeal) Rule, 2005, on the basis of recommendation sent by the Urban Development and Housing Department, Government of Bihar, Patna as contained in Letter No. 736 dated 10.02.2020 and from perusal of the said Letter No. 736 dated 10.02.2020, it would transpire that the Chief Minister, State of Bihar in the file directed/ordered for suspension and initiation of departmental proceeding against the petitioner and some other persons.

ii) For any other relief for which the petitioner may be deemed entitled to.

iii) For issuance of direction to the respondent authorities to pay the full salary for the period of suspension in view of the fact that the petitioner was suspended vide Notification contained in Memo No. 11/2020-1247(S) dated



14.02.2020, under Rule 9 (1) (a) of the Bihar Government Servant (Classification, Control and Appeal) Rules, 2005 (hereinafter referred to as the CCA Rules, 2005, for the sake of brevity) and same has been vacated vide order contained in Memo No. 573 (S) dated 27.01.2021 under Rule 9 (7) of the CCA Rules, 2005, hence the petitioner is entitled for full salary in view of the decision of the Hon'ble Full Court of this Patna High Court reported in 2009 (4) PLJR, Page-272."

Learned counsel for the petitioner submits that the petitioner has been suspended by the respondent authorities of the Road Construction Department on the recommendation of the Urban Development and Housing Department Bihar, Patna. It is settled principle of law that any authority, however, higher may be, cannot usurp the jurisdiction of a junior authority. Learned counsel for the petitioner further submits that during the pendency of the writ application, the suspension of the petitioner has been revoked under Rule 9 (7) of the CCA Rules, 2005 as the respondent authorities did not frame the memo of charge against the petitioner within a period of 7 months of the initial date of suspension.

On the other hand, learned counsel for the State



submits that the petitioner may be relegated to the concerned authorities for redressal of his grievance.

Considering the facts and circumstances of the case and without going into the merits of this Case, this writ application is disposed of with a direction to the concerned/authority that if the petitioner files a representation along with a copy of this order before him, the same shall be considered in accordance with law and he would be obliged to pass a reasoned and speaking order within a period of three months from the date of filing of such representation.

The concerned authority would be solely responsible for non-compliance of this order within the stipulated period, as aforesaid.

With the aforesaid direction, this writ application stands disposed of.

(Anjani Kumar Sharan, J)

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