

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13966 of 2021

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Dinkar Prasad Son of Sri Kishore Sah Resident of Village- Gorigama, P.S.-
Runi Saidpur, District- Sitamarhi, at present Tax Daroga cum Head Clerk
(Under Suspension), Nagar Panchayat, Dumra, District- Sitamarhi.

... .. Petitioner/s

Versus

1. The State of Bihar Through the Secretary, Urban Development Department,
Bihar, Patna.
2. Officer on Special Duty Urban Development Department, Bihar, Patna.
3. District Magistrate Sitamarhi.
4. Executive Officer Nagar Panchayat Dumra, District- Sitamarhi.
5. Additional Collector, Sitamarhi cum Departmental Proceeding Officer
Sitamarhi.
6. Mrityunjay Kumar Sanjay Son of Sri Surendra Narayan Prasad Ex-Ward
Commissioner, resident of Mahavir Chowk, Ward No. 7, Durma, Sitamarhi.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Uma Kant Tiwary, Advocate
For the Respondent/s	:	Mr. Rakesh Ambastha, AC to AAG-07
For the Nagar Nigam	:	Mr. Surendra Kishore Thakur, Advocate Mr. Subodh Kumar, Advocate

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CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
ORAL JUDGMENT

Date : 22-12-2021

Heard learned counsels for the parties.

2. In the instant petition, petitioner has prayed for
following reliefs:

“(i) An appropriate
writ/order/direction, quashing the order of
suspension, contained in Memo No. 458
dated 14.12.2020, holding the same as
illegal and void, be issued;

(ii) An appropriate
writ/order/direction, commanding the
respondents, especially Respondent no. 4
to allow the petitioner to perform his duty
as usual within a time frame, be issued;



(iii) An appropriate writ/order/direction, commanding the Respondent no. 3 to make payment of the full salary for the period commencing from 14.03.2021 upto the date as well as the admissible salary for the period under suspension of three months i.e. from 14.12.2020 upto 13.03.2021 within time frame, be issued;

(iv) Any other relief or reliefs to which the petitioners are entitled to be granted.”

3. Under Rule 23 of the Bihar Government Servants (Classification, Control & Appeal) Rules, 2005 (for short ‘Rules, 2005’), petitioner has statutory remedy of appeal against the order of suspension.

Rule 23 of the Rules, 2005 reads as under:

“23. Orders against which appeal lies. - A Government servant may prefer an appeal against order of suspension or order of punishment.”

In para 24 of the pleadings, petitioner has stated as under:

“24. That the petitioner has no any other remedy equally efficacious and the remedy applied for is complete.”

4. Today, during course of argument petitioner's counsel was asked as to whether he has statutory remedy of appeal or not? It is submitted that there is no remedy of appeal.

5. On the other hand, it is evident from the aforesaid



Rule 23 of the Rules, 2005 that petitioner has statutory remedy of appeal. Thus, the petitioner has mislead the Court in stating that he has no any other remedy equally efficacious and the remedy applied for is complete.

6. Accordingly, the instant petition stands dismissed with cost of Rs. 10,000/-. The cost shall be paid in the account of Patna High Court Legal Services Committee within a period of one week. Petitioner is at liberty to prefer memorandum of appeal before the appellate authority within a period of two weeks from today. In the event of making such appeal, the appellate authority is hereby directed to decide petitioner's appeal within a period of one month from the date of receipt of petitioner's appeal.

(P. B. Bajanthri, J)

rakhi/-

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	

