

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.672 of 2020

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Ritesh Kumar, s/o Chandradeo Prasad Verma, Resident of village- Dekpura,
PS- Rahui, Distt. Nalanda at present Suspended Agriculture Coordinator
Harnaut Block Nalanda.

... .. Petitioner/s

Versus

1. The State of Bihar through The principal secretary Department of Agriculture, Bihar, Patna.
2. The Principal Secretary Department of Agriculture, Bihar, Patna.
3. The Director, Department of Agriculture, Bihar, Patna.
4. The District Magistrate, Nalanda at Biharsharif.
5. The District Agriculture Officer, Nalanda at Biharsharif.
6. The Block Agriculture Officer, Sarmera Block, Sarmera, Distt.- Nalanda.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Mrigank Mauli Mr. Amresh Kumar Sinha Mr. Shashi Bhushan Singh
For the Respondent/s	:	Mr. Raghwanand (GA-11) Mr. Sanjay Kumar Tiwari, AC to GA-11

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL JUDGMENT

Date : 18-02-2021

Heard counsel for the parties.

This writ petition has been filed by the petitioner
for following reliefs:-

(i) for issuance of writ/writs *certiorari* in nature to
set aside the order dated 10.09.2018 as contained in Memo No.
269 issued by the District Agriculture Officer, Nalanda at
Biharsharif/respondent no. 5 by which petitioner has been
placed illegally under suspension on the recommendation of
District Magistrate, Nalanda at Biharsharif/respondent no. 4.



(ii) for issuance of writ/writs *Mandamus* in nature directing to reinstate to his post with all benefits.

The brief facts of this case are that petitioner was suspended by order dated 10.09.2018, while he was posted as Agriculture Coordinator at Harnaut, on the recommendation of the District Magistrate, Nalanda. The departmental proceeding was also initiated. Memo of charge was served upon the petitioner and vide Memo No. 339 dated 13.02.2019, the Assistant Director, Horticulture, Nalanda was appointed as conducting officer and the Block Agriculture Officer, Harnaut was appointed as presenting officer. Thereafter, notices were issued to the petitioner by the enquiry officer and reply to the show-cause was filed by the petitioner.

Learned counsel for the petitioner submitted that though petitioner was suspended on 10.09.2018 and departmental proceeding was also initiated on the same day, but in spite of lapse of about two and half years the departmental proceeding has not come to an end. It is further submitted on behalf of the petitioner that petitioner cannot be put under suspension for an indefinite period and departmental proceeding is not likely to be concluded. In this connection, he has also placed reliance upon a decision of a coordinate Bench of this



court passed in CWJC No. 8919 of 2019. It is further submitted that the departmental proceeding is pending before the enquiry officer.

In this case counter affidavit has been filed on behalf of respondents in which it is stated that the departmental proceeding has already been initiated against the petitioner and memo of charge has already been framed on 10.09.2018, but the same could not be served upon the petitioner since the appeal preferred by this petitioner was pending before the disciplinary authority and the memo of charge has now been served upon the petitioner on 22.01.2021. The departmental proceeding is already going on and petitioner has also filed his show-cause.

It is settled law that suspension is essentially transitory or temporary in nature and the same cannot be for an indefinite period. In this case, though, the petitioner was suspended on 10.09.2018 and a departmental proceeding was also initiated on the same very day, however, even after lapse of about two and half years the departmental proceeding has not been concluded.

Considering the facts and circumstances of this case and materials placed on record, this court is of the opinion that order of suspension cannot be in perpetuity otherwise the



same would be rendered punitive in nature, hence this court deems it fit and proper to revoke the order of suspension dated 10.09.2018, as contained in Memo No. 269 passed by the District Agriculture Officer, Nalanda at Biharsharif/respondent no. 5.

Respondents are directed to ensure the joining of petitioner within a period of one week from the date of receipt/production of a copy of this order.

With the aforesaid direction, this writ petition is allowed.

(Prabhat Kumar Singh, J)

vinita/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	20.02.2021
Transmission Date	

