

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2405 of 2018

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Punita Kumari wife of Ravi Shankar Tripathi, resident of Plot No. 410, Ashiana Nagar, Phase II, near Shakti Puram Road, P.S. Phulwari Sharif, District - Patna.

... .. Petitioner

Versus

1. The State Of Bihar through the Principal Secretary, Social Welfare Department, Government of Bihar, Patna.
2. The Director, Schedule Castes and Schedule Tribes Welfare Department, Government of Bihar, Patna.
3. The District Magistrate, District Bhojpur, Bihar.
4. The District Welfare Officer, District Bhojpur, Bihar.
5. The Principal, Government Ambedkar Residential Girls High School, Bhojpur, Bihar.

... .. Respondents

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Appearance :

For the Petitioner/s : Mr. Prabhat Ranjan, Adv.
For the Respondent/s : Mr. S.K.Mandal - SC-3

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CORAM: HONOURABLE MR. JUSTICE SANJEEV PRAKASH SHARMA
ORAL ORDER

11 11-07-2022 Heard the parties.

The petitioner by way of this writ petition challenged the suspension order dated 28.11.2017. Vide order dated 23.03.2018 the suspension order was stayed and made ineffective.

Learned counsel appearing for the respondents submits that the suspension order has been revoked. Thereafter the charge sheet has been served on the petitioner.

Learned counsel appearing for the petitioner submits that by I.A. No.3421 of 2018 he has challenged the



departmental proceedings initiated vide order dated 08.02.2018 and submits that the departmental proceeding could not have been initiated against him.

The I.A. was allowed vide order dated 07.01.2019. Another I.A. was filed praying for quashing of the transfer order dated 04.05.2018, which was also allowed. Learned counsel for the respondents submits that the order dated 04.05.2018 has also become ineffective as the petitioner has been allowed to be posted at the place of choice of the petitioner. However, he submits that so far as the departmental proceedings are concerned, the same are liable to be continued and ought not be interfered in the written jurisdiction.

Learned counsel for the petitioner submits that he before initiating the departmental proceedings, the enquiry should be conducted at the level.

I have considered the submissions.

The disciplinary proceedings also known as departmental proceedings commenced with the issuance of the charge sheet under Rule 17 (3) of the Rules of 2005. Thereafter reply is sought from the delinquent, who may admit or deny the charges. On receipt of the written statement/reply of the delinquent, the disciplinary authority may decide to inquire



himself or appoint an enquiry officer who will conduct inquiry in terms of rule 17. On the basis of written statement, the disciplinary authority may also choose to drop the charges at that stage. However, if he decides to continue the departmental proceeding, the concerned delinquent is required to submit before the Enquiry Officer, his statement of defence and the prosecution case shall be put up on behalf of the State along with the witnesses. Enquiry would be done by giving fair opportunity of hearing to both the parties including cross-examination of the witnesses. Thereafter Enquiry Officer will submit his enquiry report. The same may be examined by the disciplinary authority and he may also direct for denovo enquiry, if so require. However, there is no such stage as suggested by the learned counsel for the petitioner of conducting an enquiry before issuance of charge sheet. A preliminary enquiry as is not a pre-condition for initiating disciplinary proceedings.

In any case, where there is an allegation and doubt relating to delinquency committed by a Government servant procedure has been laid down for major penalty under Rule 17. No government functionary can be allowed to allege such departmental proceedings should not be conducted against him



in spite of there being allegation against him. It may be another case, where there is an allegation of malafide alleged against a particular disciplinary authority, however, in the present case there is no such allegation against the disciplinary authority.

In view thereof, no case for interference in the departmental enquiry is made out.

The writ petition is misconceived so far as it relates to the departmental proceedings and the same is accordingly dismissed so far as other prayers, the writ petition has been rendered infructuous.

All the interim orders passed by this Court also stands merged with the present order.

The writ petition is dismissed.

(Sanjeev Prakash Sharma, J)

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