

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8846 of 2021

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Birendra Kumar Sahu, Son of Sri Parmeshwar Sahu, Resident of Quality Campus, C- 303, Lohia Road, Jagdeopath, Police Station - Airport, District-Patna, Presently posted as Deputy Superintendent of Police (suspended), Head Office, Office of Inspector General of Police, Purnia.

... .. Petitioner

Versus

1. The State of Bihar represented through the Chief Secretary, Government of Bihar, Patna.
2. The Principal Secretary, Department of Home (Police), Government of Bihar, Patna.
3. The Principal Secretary, Department of Vigilance, Government of Bihar, Patna.
4. The Director General of Police, Bihar, Patna.
5. The Director General, Vigilance Investigation Bureau, Bihar, Patna.
6. The Additional Director General of Police (Law and Order), Bihar, Patna cum Conducting Officer.
7. The Special Secretary, Department of Home (Police), Government of Bihar, Patna.

... .. Respondents

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Appearance :

For the Petitioner/s : Mr. Satya Prakash Parasar, Advocate
For the Respondent/s : Mr. Dhurendra Kumar, AC to GP-5

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

5 04-05-2023 Heard learned counsel for the petitioner and the State.

2. Petitioner in the present case is seeking the following

reliefs:-

- “i) For issuance of writ in the nature of certiorari for revocation of suspension of the petitioner as petitioner has remained suspended for more than 5 years i.e. since 05.06.2015 vide Notification No. 3896 dated 05.06.2015 even without any purpose as the Respondents are not justified as they are keeping the petitioner suspended without any just and valid reason which is completely unjustified, discriminatory and unfair since delay in disposal of the disciplinary proceeding is not attributable to the petitioner.
- ii) For issuance of an appropriated Writ/Writs, direction/directions in the nature of Mandamus or



Writs, order or orders for directing the concerned Respondents to produce all connected records for perusal of the same for passing an appropriate order.

iii) For any other relief/reliefs which the Hon'ble Court may grant in the interest of the petitioner that may be deemed appropriate and necessary in this case.”

3. Earlier the petitioner had moved this Court in CWJC No. 4899 of 2017 seeking the same and one relief. After hearing learned counsel for the petitioner and the State, this Court vide order dated 12.09.2017 passed the following order:-

“7. While disposing of this writ application, I also observe that the respondents shall consider the petitioner's representation for revocation of the order of suspension, on the ground of its long continuance, if a representation is filed by the petitioner within a fortnight from today. If such representation is filed within a fortnight, the Court expects the Department to consider such representation and take a final decision within a period of two (2) months thereafter.”

4. Learned counsel for the petitioner submits that despite the order of this Court to consider the representation of the petitioner for revocation of the order of suspension on the ground of its long continuance and to take a final decision within a period of two months, the said order was knowingly misconstrued by the Deputy Secretary to the Government in the Home Department (Police Branch) and instead of considering the representation for revocation of suspension, in the name of the order of this Court, a direction was



given to the Inquiry Officer to conclude the disciplinary proceeding. Till date, no decision has been taken by the competent authority on the representation of the petitioner for revocation of suspension. In this manner, the petitioner has remained under suspension for another six years.

5. Learned counsel submits that the disciplinary proceeding is under challenge in this Court in CWJC No. 5367 of 2017 and this Court has stayed the disciplinary proceeding till disposal of the criminal case. Learned counsel for the petitioner has relied upon a judgment of the Hon'ble Supreme Court in the case of **Ajay Kumar Choudhary Versus Union of India** reported in (2015) 7 SSC 291.

6. A counter affidavit has been filed on behalf of the State. Filing of representation for revocation of suspension is admitted but in paragraph '13' of the counter affidavit, it is stated that the High Level Empowered Committee in its meeting dated 09.02.2017 considered the matter and resolved that the suspension of the petitioner could not be revoked till the conclusion of the departmental proceeding as the allegation against the petitioner is of serious nature.

7. Learned counsel for the State submits that from Annexure 'G' and the other materials available on the record, it would appear that the petitioner was not co-operating in the departmental proceeding and because of his non-cooperation, the departmental proceeding could not be taken to a logical end. It is,



however, not denied that in CWJC No. 5367 of 2017, the disciplinary proceeding against the petitioner has been stayed till disposal of the criminal case.

8. It is stated in supplementary counter affidavit that the respondents have filed an interlocutory application in the said writ application for vacating the order of stay.

9. In the given facts and circumstances of the case, where the petitioner has already remained under suspension for about 8 years and neither the judicial proceeding nor the disciplinary proceeding has come to an end during this period, in the opinion of this Court, the High Level Empowered Committee which had earlier decided not to revoke the suspension of the petitioner must revisit its decision and take an appropriate view on keeping the petitioner under suspension at this stage, within a period of two months from the date of receipt/production of the copy of this order.

10. The Committee shall also look into the law laid down by the Hon'ble Supreme Court in the above mentioned judgment.

(Rajeev Ranjan Prasad, J)

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