

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4271 of 2023

=====

Hem Chandra Lal Karn Son of Late Bhola Lal Karn, R/o Village- Morwara,
Post Morwara, P.S. Singhia, District Samastipur 848209

... .. Petitioner/s

Versus

1. The State of Bihar through Chief Secretary, Government of Bihar, Patna.
2. The Secretary, Rural Works Department, Government of Bihar, Patna.
3. The Special Secretary, Rural Works Department, Government of Bihar.

... .. Respondent/s

=====

Appearance :

For the Petitioner/s	:	Mr. Mrigank Mauli, Sr. Adv with Mr. Kishore Kunal, Adv.
For the Respondent/s	:	Mr. Virendra Kumar AC to GP10

=====

CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL JUDGMENT

5 07-10-2023 Heard learned senior counsel for the petitioner and
learned counsel for the State.

2. The petitioner has put to challenge the order of
suspension dated 09-02-2023, as contained in Annexure-2 to
the writ petition.

3. The learned senior counsel for the petitioner
submits that the petitioner was taken in custody on 03-08-2022.
On being enlarged on bail, he joined the office on 20-09-2022
when he was placed under suspension w.e.f. the date he was
taken in custody. The order, however, has subsequently been
passed on 07-11-2022 under Rule 9(1)(a) read with Rule 9(1)(c)
of the Bihar Government Servants (Classification, Control &
Appeal) Rules, 2005 (for short “ the Bihar CCA Rules, 2005”),



placing the petitioner under suspension again rather than continuing his suspension.

4. The learned senior counsel for the petitioner submits that the order is unsustainable, as it does not record any reason so as to sustain the action being taken under Rule 9(1)(c) of the Bihar CCA Rules, 2005, which reads as follows:-

“9. Order of Suspension.--(1)

The appointing authority or any authority to which the appointing authority is subordinate or the disciplinary authority or any other authority empowered in that behalf by the Government by general or special order, may place a government servant under suspension when--

....

(c) a case against the government servant in respect of any criminal offence is under investigation, inquiry or trial and the competent authority is satisfied that it is expedient to suspend the Government Servant in public interest.”

5. The submission of the learned senior counsel appears to be correct with reference to Rule 9(1)(c), as there is no such reason recorded in the order of suspension dated 09-02-2023 (Annexure-2) to the effect that it is warranted in public interest to place him under suspension. The order, however, is a composite order passed under Rule 9(1)(a) read with Rule 9(1)(c). Rule 9(1)(a) empowers the authority to



suspend in contemplation of proceedings. The same reads as follows:-

“9. Order of Suspension.--(1)

The appointing authority or any authority to which the appointing authority is subordinate or the disciplinary authority or any other authority empowered in that behalf by the Government by general or special order, may place a government servant under suspension when--

(a) a disciplinary proceeding against the Government Servant is contemplated or is pending, or”

6. The impugned order dated 09-02-2023 has also been passed in contemplation of proceedings. The proceedings have been initiated by service of the charge memo on 13-02-2023, just four days thereafter.

7. The order of suspension, insofar as it is passed under Rule 9(1)(a) of the Bihar CCA Rules, 2005 is concerned, is thus valid in the eyes of law. The fact that it is not sustainable in terms of Rule 9(1)(c) of the Bihar CCA Rules, 2005, therefore, does not inure to the petitioner's benefit in any way. The suspension order, in the opinion of this Court, does not require any interference.

8. It is needless to say that the petitioner's remedies for enhancement of subsistence allowance, etc., in terms of Rule 10(1)(a) of the Bihar CCA Rules, 2005; or otherwise, at a later



stage, shall remain to be availed or invoked, in accordance with law.

9. The writ application stands dismissed.

(Madhuresh Prasad, J)

shyambihari/-

AFR/NAFR	AFR
CAV DATE	NA
Uploading Date	28.10.2023
Transmission Date	NA

