

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11336 of 2022

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Shashi Bhushan Kumar, Son of Late Nathuni Raut, Resident of Village-
Sakra, Faridpur, Police Station - Sakra, District -Muzaffarpur.

... .. Petitioner

Versus

1. The State of Bihar through Principal Secretary, Co-operative Department, Patna.
2. The Secretary, Co-operative Department, Government of Bihar, Patna.
3. The Deputy Secretary, Co-operative Department, Government of Bihar, Patna.
4. The Registrar, Co-operative Societies, Government of Bihar, Patna.
5. The Joint Registrar, Co-operative Societies, Patna Division, Patna.

... .. Respondents

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Appearance :

For the Petitioner/s	:	Mr. Uday Chand Prasad, Advocate Mr. Manoj Kumar, Advocate Ms. Pooja Prasad, Advocate
For the Respondent/s	:	Mr. Sanjay Kumar, AC to GA-13

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

3 04-05-2023 Learned counsel for the petitioner undertakes to
remove the defects in course of the day except page no. 47.

2. Heard learned counsel for the petitioner and learned
counsel for the State.

3. Petitioner in the present case is seeking the
following reliefs:-

“(i) For issuance of writ in the nature of
certiorari for quashing of Notification dated
28.12.2017 issued by Deputy Secretary
(Vigilance) Co-operative Department, Bihar,
Patna whereby petitioner has been suspended
with effect from 23.11.2017 for the charges
of instituting First Information Report against
him in trap case from the post of Managing
Director, the Vaishali District Central Co-



operative Bank Ltd. Hajipur, Vaishali.

(ii) For issuance of writ in the nature of Mandamus direction to Respondents to revoke suspension of the petitioner who has been suspended from the post of Managing Director, District Central Co-operative Bank Ltd., Hajipur, Vaishali and to post him anywhere for discharging his duty.

(iii) For direction to Respondents to make payment of subsistence allowance up to 75% to the petitioner with effect from 23.11.2018 after passing one year of suspension as per rule 10(1)(i) of Bihar Government Servant (Classification, Control and Appeal) Niyamavali, 2005.

(iv) For any other appropriate writ, order, direction save and except in accordance with law.”

4. It is the case of the petitioner that he was put under suspension from service while posted as Managing Director, Vaishali District Central Co-operative Bank Limited, Hajipur with effect from 23.11.2017 vide Annexure ‘4’ to the writ application. A charge memo has been served upon him for the charges of taking bribe of Rs. 80,000/-. The petitioner has participated in the disciplinary proceeding but the same has not been concluded till date.

5. Learned counsel submits that in the meantime, the petitioner has submitted a representation to the Secretary, Co-operative Department, Bihar vide Annexure ‘8’ to the writ application.

6. The submission of the petitioner is that on the one



hand, the petitioner has been kept under prolonged suspension, on the other hand, he is not being paid enhanced subsistence allowance up to 75% in accordance with Rule 10(1)(i) of the Bihar Government Servant (Classification, Control and Appeal) Rules, 2005 (hereinafter referred to as “the Service Rules of 2005”).

7. Learned counsel submits that in similar circumstance, one Dr. Shravan Kumar who was also suspended on 08.06.2017 has been allowed subsistence allowance of 75% with effect from 08.06.2018 vide Annexure ‘9’ to the writ application. In this regard, the representation of the petitioner has not been considered for last two years. The competent authority having considered the service complaint of the petitioner, has passed order dated 30.03.2022 (Annexure ‘15’) and the Appellate Authority of the Co-operative Department has also passed an order dated 17.06.2022 (Annexure ‘17’), still, there is no compliance with the order.

8. Learned counsel for the petitioner submits that in such circumstance, this Court may direct the respondent authorities to comply with the order of the Service Complaint Redressal Officer (Annexure ‘15’) and the Appellate Authority, Co-operative Department as contained in Annexure ‘17’ to the



writ application.

9. Learned counsel for the State does not dispute that Annexures 15' and '17' are the orders passed by the competent authority under the Bihar Government Servant Grievance Redressal Rules which has a statutory force.

10. Having regard to the facts and circumstances and the submissions noted hereinabove, this Court directs Respondent No. 1 i.e. the Principal Secretary, Co-operative Department, Patna to ensure compliance with the order passed by the statutory authority as contained in Annexures '15' and '17' of the Rules which has got statutory flavour.

11. The Principal Secretary of the Department is further directed to inquire into the matter as to why the statutory orders which have been passed by the authorities under the rules are not being complied with and who are responsible for the same. Necessary consequential action be taken in this regard.

He will ensure compliance with the consequential payment to the petitioner.

12. The Respondent No. 1 is further directed to consider the desirability of keeping the petitioner under further suspension if the disciplinary proceeding as well as the judicial proceeding have not been culminated for a period of six years till now.



13. Let a decision in this regard be taken in accordance with law within a period of two months from the date of receipt/production of a copy of this order.

14. This writ application stands disposed of accordingly.

15. Certified copy of this order shall be made available only after removal of the defects.

(Rajeev Ranjan Prasad, J)

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