

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11169 of 2024

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Awadh Kishore Kumar Son of Late Fakira Prasad, Resident of Village- Mai,
P.S.- Hilsa, District- Nalanda. Temporary residing at Quarter No. 22/4,
University Colony, P.S.- Bariatu, Ranchi.

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Urban Development and Housing Department, Govt. of Bihar, Patna.
2. The Municipal Commissioner, Gaya Municipal Corporation, Gaya.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Shashank Chandra, Advocate
For the Respondent/s	:	Mr.Standing Counsel 10
For the respondent No.2	:	Mr. Rabindra Kumar Priyadarshi, Advocate

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CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN

ORAL ORDER

2 29-07-2024 Heard learned counsel for the petitioner, learned

counsel for the State and learned counsel for the Municipal

Commissioner, Gaya.

2. The present writ petition has been filed for quashing the Memo No. 1323 dated 25.05.2024 whereby and whereunder Respondent No.2 whereby the salary of the petitioner has been stopped till further order.

3. Learned counsel for the petitioner submits that vide Memo No. 1323 dated 25.05.2024 (Annexure P/8), a direction was given to stop the salary of the petitioner without following the procedure laid down and it is basically a coercive decision for which order has already been passed by the competent authority in the year 2016 and punishment has been awarded.



4. Learned Municipal Commissioner, Gaya submits that the said order is completely in accordance with law and in the light of the Rules of the Patna Municipal Corporation Officers and Servants (Appointment, Duties, Discipline and Appeal) Rules, 1955 (hereinafter referred to as the 'Rules of 1955') which has been adopted by all the municipal corporation including Gaya Municipal Corporation.

5. Upon perusal and minute reading of Annexure P-8, it transpires to this Court that this order contains that salary shall be stopped till further order. It transpires to this Court that under Rule 7 of the Rules of 1955, this order has not been recognized and as such, there is no question of preferring appeal against the said order. It further transpires to this Court that the said Rules of 1955 shall not apply on Annexure P-8 . Therefore, Annexure P/8 is hereby sets aside.

6. Since the petitioner is the employee of Gaya Municipal Corporation, therefore, under law, the Corporation has liberty to take action against him in accordance with law.

7. With this direction, the writ petition is allowed.

(Dr. Anshuman, J)

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