

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13192 of 2024

Umesh Kumar Rai Son of Late Radha Rai Resident of Kautilya Nagar, A.G. Colony, Rajvanshi Nagar, P.S.- Shastrinagar, Town and District- Patna, Pin-800023.

... .. Petitioner/s

Versus

1. The State of Bihar through the Additional Chief Secretary, Road Construction Department, Govt. of Bihar, Patna.
2. The Additional Chief Secretary, Road Construction Department, Govt. of Bihar, Patna.
3. The Secretary, Road Construction Department, Govt. of Bihar, Patna.
4. The Deputy Secretary (Vigilance), Road Construction Department, Bihar, Patna.
5. The Chief Engineer, National Highway (South) Wing, Road Construction Department, Bihar, Patna.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr.Lalit Kishore, Sr. Advocate Mr.Aditya Srijan, Advocate
For the Respondent/s	:	Mr.Ajay Behari Sinha, GA-8 Mr.Upendra Kumar Singh, AC to GA-8

CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL ORDER

2 05-09-2024 Heard Mr. Lalit Kishore, learned Senior Counsel along with Mr. Aditya Srijan, learned counsels appearing on behalf of the petitioner and Mr. Ajay Behari Sinha along with Mr. Upendra Kumar Singh, learned counsels on behalf of the State.

2. The petitioner in the present writ petition has sought for quashing of the suspension order issued under signature of Deputy Secretary, Road Construction Department, Government of Bihar as contained in Memo No.2829 (S) dated 21.06.2024 (**Annexure-P/12**).



3. Brief facts of the case are that while the petitioner was posted as the Superintending Engineer, Central Road Circle, Road Construction Department, Patna, however, additional charge of Superintending Engineer, National Highway Works, Circle Road Construction Department, Patna, was given to him where he joined on 21.03.2024. During the said period, on the basis of a report submitted vide memo no. 1556 dated 20/06/2024 (**Annexure-P/9**), the petitioner was put under suspension vide notification, as contained in Memo No. 2829 (S) dated 21/06/2024, in view of provisions made under Rule 9 (6) (c) of the Bihar Government Servant (Classification, Control and Appeal) Rules, 2005 (hereinafter referred to as 'Rules, 2005') on charge, "For violation of set practice of reservation related to booking of rooms in Inspection Bungalow of National Highway, Patna, which appears to be negligence on the part of petitioner" allegedly that vide letter No.2135 dated 04.08.2015, the Chief Engineer, National Highway (South) Wing, Road Construction Department, Bihar, issued detailed guidelines in respect of booking of rooms and conference hall of NHIB on applicable rate to lease out the rooms and conference hall".

4. Mr. Lalit Kishore, learned senior counsel submitted



that it is the case of the petitioner that vide memo No.1555 dated 20.06.2024, which he had received at 4:54 PM on 20.06.2024 on the Whatsapp but without awaiting reply to the show cause, the concerned Chief Engineer forwarded enquiry report hurriedly and thereafter, the petitioner was put under suspension in a most *mala fide* manner on the basis of said enquiry report vide memo No.2829(5) dated 21.06.2024, (**Annexure-P/12**) as per the provisions of Rule 9(1) (c) of the Bihar Government Servant (Classification, Control and Appeal) Rules, 2005 (hereinafter referred to as Rules, 2005).

5. The specific charge contained therein is as under : -

“For violation of set practice of reservation related to booking of rooms in Inspection Bungalow of National Highway, Patna which appears to be negligence on the part of petitioner.”

6. Learned counsel further submitted that the suspension order vide memo no 2829(5) dated 21.06.2024, as well as, vide Circular No. 6968 dated 12.07.2021 issued by General Administration Department, Govt. of Bihar, was issued without considering the reply to the show cause filed by the petitioner vide letter No.600 dated 21.06.2024 (**Annexure-P/11**). The suspension order was not issued under the authority of the disciplinary authority, which is in violation of Rule-9(6) (c) of Rules, 2005. Learned senior counsel further submitted that



the petitioner has been suspended with a *mala fide* intention just before issuance of promotion order for the post of Chief Engineer to accommodate some of the juniors, to the post of Chief Engineer, hence, specific case of petitioner is that the order of suspension shows the *mala fide* vested with bias to accommodate some of the near and dear one of the superior authority.

7. Learned Senior Counsel in above background submitted that even the charge which has been alleged against the petitioner do not constitute any misconduct as per Rule 14 of Bihar Government Servants (Classification, Control & Appeal) Rules, 2005, however, he submits that at the present, the petitioner seeks for consideration of his representation dated 01.07.2024, filed before the Additional Chief Secretary, Road Construction Department, Govt. of Bihar, Patna, which is pending for more than two months. In view of the action of the authority being vested with *mala fide* interest, the suspension is not in accordance with Rule 9 (6) (c) of Bihar Government Servants (Classification, Control & Appeal) Rules, 2005.

8. Considering the limited relief(s) as prayed for on behalf of the petitioner, I find it proper to direct the Additional Chief Secretary, Road Construction Department, Govt. of Bihar,



Patna to consider the grievance of the petitioner, who is under suspension, preferably within a period of three weeks, from the date of communication of this order considering the pending representation of the petitioner.

9. With the above observation/direction, the present writ petition stands disposed of.

(Purnendu Singh, J)

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