

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16321 of 2024

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Manoj Kumar Paswan S/o Ghurfekan Paswan Resident of Village- Ghatikan,
P.S.- Shivanagar, District- Rohtas.

... .. Petitioner/s

Versus

1. The State of Bihar, through the Principal Secretary, Department of Home, Govt. of Bihar, Patna.
2. The Principal Secretary, Department of Home, Govt. of Bihar, Patna.
3. The Inspector General of Police, Bhagalpur.
4. The D.I.G., Bhagalpur.
5. The S.P., Banka.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Sanjay Kumar Sinha, Advocate.
For the State : Mrs. Shama Sinha, Advocate.

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CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL ORDER

2 24-10-2024 Heard Mr. Sanjay Kumar Sinha, learned counsel

 appearing on behalf of the petitioner and Mrs. Shama Sinha,

 learned counsel for the State.

2. The petitioner in paragraph no. 1 of the present writ
petition has sought, *inter alia*, following relief(s), which is
reproduced hereinafter:-

*“(i) For issuance of a direction to the respondents to
revoke the order of suspension of the petitioner passed by the S.P
Banka vide District Order no - 1076/2023 memo no 3021 dated
13.10.2023 through which the petitioner was put under
suspension pursuant to the vigilance case no 33/23 dated
09.10.2023 in which the petition was arrested by the vigilance
team on 10.10.2023 and sent to jail and when he was released on
bail by this Hon'ble High Court Patna vide Cri Misc No
12861/2024 on 18.04.2024 he joined the duty on 27.04.2024 even
then his suspension order has not been revoked which is illegal
and unsustainable in the eye of law and even after 11 months the
petitioner is still under suspension which can't be more than six
months at a time.*



(ii) *For issuance of the direction to the respondents to make the payment of subsistence allowance/ salary from the date of suspension till the date of joining i.e from 13.10.2023 to 30.04.2024 to the petitioner with interest for delay in making the payment.*

(iii) *For any other relief / reliefs for which the petitioner is found entitled to be in the facts and the circumstance in the case."*

3. Learned counsel appearing on behalf of the petitioner informs that the petitioner has filed a representation for revocation of his suspension, which according to him, is not in accordance with Rule 9 of the Bihar CCA Rules, 2005. In this regard, petitioner has relied upon Para-21 of the judgment rendered by the Apex Court in the case of **Ajay Kumar Choudhary Vs. Union of India & Anr., reported in AIR 2015 SC 2389**, which is reproduced hereinafter:

"21. We, therefore, direct that the currency of a suspension order should not extend beyond three months if within this period the memorandum of charges/charge-sheet is not served on the delinquent officer/employee; if the memorandum of charges/charge-sheet is served, a reasoned order must be passed for the extension of the suspension. As in the case in hand, the Government is free to transfer the person concerned to any department in any of its offices within or outside the State so as to sever any local or personal contact that he may have and which he may misuse for obstructing the investigation against him. The Government may also prohibit him from contacting any person, or handling records and documents till the stage of his having to prepare his defence. We think this will adequately safeguard the universally recognised principle of human dignity and the right to a speedy trial and shall also preserve the interest of the Government in the prosecution. We recognise that the previous Constitution Benches have been reluctant to quash proceedings on the grounds of delay, and to set time-limits to their duration. However, the imposition of a limit on the period of suspension has not been discussed in prior case law, and would not be contrary to the interests of justice. Furthermore, the direction of the Central Vigilance Commission that pending a criminal investigation, departmental proceedings are to be held in abeyance stands superseded in view of the stand adopted by us."

4. Considering the aforesaid submission made on



behalf of the petitioner and the law laid down by the Apex Court in the case of **Ajay Kumar Choudhary (supra)** , the Superintendent of Police, Banka is directed to consider the representation of the petitioner and pass necessary order in accordance with the provision of Bihar CCA Rules, 2005 and the guidelines / Manual of the Police Department.

5. It goes without saying that if the suspension of the petitioner is revoked, he is entitled for the relief as sought for in the representation filed by the petitioner.

6. The writ petition stands disposed of.

(Purnendu Singh, J)

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