

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17349 of 2024

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Md. Shahid Nadaf, Son of Md. Wakil Nadaf, Resident of Gram-Pansiha, Post-Ughra, P.S.-Bahadurpur, District-Darbhanga.

... .. Petitioner/s

Versus

1. The State of Bihar through the District Magistrate, Darbhanga.
2. The Divisional Commissioner, Darbhanga, Division-Darbhanga.
3. The District Magistrate, Darbhanga.
4. The Senior Superintendent of Police, Darbhanga.
5. The City Superintendent of Police, Darbhanga.
6. The Circle Officer, Hayaghat, Darbhanga.
7. The S.H.O. Pator O.P., District-Darbhanga.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Sanjeev Kumar Mishra, Advocate Mr. Ashwini Kumar, Advocate Ms. Mohini Jaiswal, Advocate
For the Respondent/s	:	Mr. Sudhanshu Sekhar, Advocate

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CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

2 18-11-2024 Heard Mr. Sanjeev Kumar Mishra, learned Advocate

for the petitioner and Mr. Sudhanshu Sekhar, learned Advocate

for the State.

2. The petitioner by invoking the jurisdiction of this Court seeking quashing of the order dated 05.09.2019 as contained in memo no. 1489 whereby the petitioner has been put under suspension from the post of Chowkidar with effect from 05.09.2019, the date on which the order has been issued by the District Magistrate. The petitioner also sought for a direction to reinstate him on the post of Chowkidar and pay all the



consequential benefits till date.

3. Learned Advocate for the petitioner narrating the short facts of the case contended that while the petitioner was working as a Chowkidar at Patur O.P., Bahadurpur, Darbhanga, an FIR has been instituted in Patur O.P., P.S. Case No. 169 of 2019 registered for the offences punishable under Section 30(a)/41(1) of the Bihar Excise and Prohibition Act.

4. It is alleged that the petitioner in collusion with the other co-accused persons have facilitated the trafficking of illicit wine. The aforementioned FIR led to suspension of the petitioner vide impugned order as noted hereinabove.

5. Learned Advocate for the petitioner contended that irrespective of the fact that the petitioner was placed under suspension way back in the year 2019, till date in complete disregard to the Rule 9(7) of the Bihar Government Servant (Classification, Control and Appeal) Rules 2005, neither Prapatra-K has been framed, nor any departmental proceeding has been initiated. Rule 17(3) of the CCA Rules, 2005 clearly stipulate that the memo of charge (Prapatra-K) shall be drawn by the disciplinary authority for conducting an inquiry and in any view of the matter the same is required to be done within three months, unless there is any order otherwise.



6. It is further contended that till date no memo of charge has been served upon the petitioner and thus, the continuation of suspension without initiation of proceeding is wholly bad in the eyes of law. Reliance has also been placed upon a decision of the Hon'ble Apex Court in the case of ***Ajay Kumar Choudhary vs. Union of India & Anr., (2015) 7 SCC 291*** that a prolonged suspension should not be extended beyond three months if a charge-sheet is not served on the delinquent employee.

7. On the other hand, learned Advocate for the State submits that the submission of the petitioners are required to be verified and for the said purpose four weeks' time has been prayed to file a counter affidavit.

8. Considering the submissions advanced on behalf of learned Advocate for the petitioner and the averments made in the writ petition, that irrespective of the fact that the petitioner has been placed under suspension for the last 5 years, till date the memo of charge has not been served upon him, this Court finds substance in the submission of learned Advocate for the petitioner.

9. Rule 9(7) of the CCA Rules, 2005 stipulates in clear term that:-



*“ 9(7). Charge-sheet must be framed within three months from the date of issue of suspension order failing which on expiry of three months, the suspension order shall be revoked unless the authority, which issued the suspension order, passes the order renewing the suspension alongwith reasons to be recorded in writing for the delay in framing of charge-sheet for a further period of four months :
Provided that after the expiry of extended period of four months the suspension order shall stand revoked if the charge-sheet is not framed.”*

In view thereof writ petition stands disposed off with a direction to the District Magistrate, Darbhanga to consider the claim of the petitioner in the light of Rule 9(7) of the CCA Rules, 2005 preferably within a period of two weeks from the date of receipt/production of a copy of this order and pass appropriate order.

10. The competent authority shall also take a decision on the prayer of the petitioner for consequential benefits, in case the suspension is revoked.

11. The writ petition stands disposed off.

(Harish Kumar, J)

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