

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3470 of 2025

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Anant Kumar, Son of Sri Sidheshwar Prasad, Resident of Sehgal Path, New Area Jakkanpur, Near Bharat Lal Tent Mechant, P.S. - Jakkanpur, P.O. - G.P.O., District - Patna, Pin - 800001.

... .. Petitioner/s

Versus

1. The State of Bihar through the Secretary, Information and Public Relations Department, Government of Bihar.
2. Director, Information and Public Relations Department, Government of Bihar.
3. Joint Secretary, Information and Public Relations Department, Government of Bihar.
4. District Magistrate, West Champaran, Bettiah.
5. Additional Collector-cum-District Public Grievance Redressal Officer, West Champaran, Bettiah.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Abhinav Srivastava, Sr. Advocate
For the Respondent/s : Mr. Sushant Prabir, Advocate

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CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

2 03-03-2025 Heard Mr. Abhinav Srivastava, learned Senior Advocate for the petitioner and Mr. Sushant Prabir, learned Advocate for the State.

2. The petitioner is aggrieved with the order as contained in notification no. 501 dated 17.12.2024 issued by the Director, Information and Public Relations Department, Government of Bihar whereby the period of suspension of the petitioner has been extended by further four months in terms of the provisions contained under Rule 9(7) of the Bihar Government Servants (Classification, Control and Appeal)



Rules, 2005 (In brevity, Rules, 2005). The petitioner also assailed the notification dated 29.08.2024 bearing notice no. 220 whereby the petitioner was placed under suspension, while continuing in the capacity of Public Relations Office, West Champaran in terms of Rule 9(1)(a) and Rule 9(1)(c) of the Bihar CCA Rules, 2005.

3. The brief facts emerging from the materials available on record are that while the petitioner was posted as Public Relation Officer, West Champaran, Bettiah a complaint was made by one Mukesh Ram, alleging, inter alia, therein that the District Magistrate authorized the building of 34 new hoardings, which had been manipulated by the petitioner into 118 hoardings; additionally the petitioner after one month of having received the approval from the District Magistrate, had manipulated one approval into four office orders and sent the said approvals to a far-flung agency, namely Sai agency and transferred Rs. 14,00,000/ into the account of that agency and thereafter the said amount was distributed amongst the petitioner and others.

4. The aforementioned complaint led to issuance of the show cause notice to the petitioner which was duly responded by the petitioner, however the same did not find favour and all



of a sudden vide impugned notification dated 29.08.2024, bearing memo no. 879 the petitioner was found *prima facie* guilty of misuse of his post and placed under suspension in terms of the provisions contained under Rule 9(1)(a) and Rule 9(1)(c) of the Bihar CCA Rules, 2005.

5. Learned Senior Advocate for the petitioner strenuously argued that the arbitrariness on the part of the concerned authority is writ large for the simple reason that Rule 9(1)(c) of Rules, 2005 envisages the situation, wherein a case against the Government servant in respect of any criminal offence is under investigation and inquiry of trial is pending against the employee before the employee could be suspended, however, in the case in hand there is no criminal case pending against the petitioner.

6. It is further contended that notwithstanding the specific prescription prescribed under Rules 9(7) for submission of the charge-sheet, when the respondent authorities failed to submit the charge-sheet, the petitioner immediately submitted a representation on 13.12.2024 before the Secretary Information and Public Relation Department, Government of Bihar requesting therein to revoke his suspension, the copy of which is marked as Annexure P/19 to the writ petition. But it is most



surprising, rather unfortunate, that instead of revoking the suspension of the petitioner, the respondent authority issued impugned notification bearing no. 501 dated 17.12.2024 and extended the suspension of the petitioner for a further period of four months, in a most arbitrary manner, without assigning any reason, in true sense.

7. It is further urged before this Court that the respondent authorities, taking advantage of their own wrong, since the only reason which has been assigned for extending the suspension of the petitioner is the non-supply of charge-sheet alongwith evidence, for which absolutely no fault is attributable to the petitioner. Nonetheless, it is the admitted position that after the expiry of the period of three months, the petitioner immediately filed a representation for revocation of his suspension. However, the respondent authorities instead of revoking the suspension, has extended the period of suspension contrary to the mandate of the Full Bench of this Court in the case of *The State of Bihar & Ors. vs. Gyan Kumar Ram, (2009) 4 PLJR 272 (Full Bench)*.

8. Referring to Full Bench decision of this Court, learned Senior Advocate contended that once the respondent authorities failed to frame charge-sheet or if charge-sheet is not



framed within three months and no order renewing the suspension is passed, at that stage, the employee has the right to seek for revocation of order of suspension and in such event the order of suspension is bound to be revoked once the employee evinces his intention to resume duty by making appropriate application before the concerned authority or even in a Court of law.

9. Attention of this Court has also been drawn to Annexure P/20, impugned herein, whereby the suspension of the petitioner has been extended by further four months without recording any appropriate reasons. On both the grounds referred, hereinabove, the impugned order of extension of the period of suspension of the petitioner for further four months is wholly illegal, arbitrary and in complete transgression to the Rules 9(7) of the Rules, 2005, apart from contrary to the mandate of this Court in the case of ***Gyan Kumar Ram (supra)***. It is further added to the aforementioned contention that the suspension order is also bad in view of the non-compliance of Rule 10 of the Bihar CCA Rules, inasmuch as, till date the petitioner has not been accorded the subsistence allowance for the period of suspension and thereby he is facing financial crunch.

10. Learned Advocate for the State dispelling the



aforenoted contention has contended that while passing the impugned order as contained in Annexure P/20 to the writ petition, the reason has been assigned to the extent that on account of non-supply of the charge-sheet alongwith the evidence, the memo of charge could not be framed and, in such circumstances the period of suspension has been extended, moreover, the contention of the petitioner to the extent of institution of a criminal case as well as filing of representation before the concerned authorities are yet to be examined by the concerned respondent authorities.

11. Having heard the learned Advocate for the respective parties, and after going through the ruling of the Full Bench of this Court in the case of **Gyan Kumar Ram (supra)** this Court finds substance in the submission of learned Senior Advocate for the petitioner. It would be appropriate to encapsulate the relevant paragraph which would be worth benefiting here :

“17.The law is well settled that no provision of any statutory rule should be read in isolation and effort should be made to harmonise all the provisions. It is to be noticed that Rule 9(7) empowers the competent authority to pass an order renewing the suspension with reasons to be recorded in writing for the delay in framing charge-sheet, if charge-sheet is not framed within three months and no



order renewing the suspension is passed, at that stage, the employee has the right to seek for revocation of the order of suspension and in such an event, the order of suspension is bound to be revoked once the employee evinces his intention to resume duty by making appropriate application before the concerned authority or even in a court of law. If by the time the employee makes an application for reinstatement on account of the non-compliance with Rule 9(7), the authority concerned will have no further discretion in the matter and is bound to reinstate him in service. If, on the other hand, before the employee evinces clear intention to be reinstated, the competent authority issues any order renewing the order of suspension for reasons to be recorded in writing, the cloud regarding the vulnerability of the suspension is cleared and thereafter there will not be any occasion for the suspended employee to claim that he must be reinstated in service notwithstanding the fact that in the meantime the competent authority has passed an appropriate order renewing the suspension. What is to be noticed is that Rule 9(7) does not lay down in clear terms that the order extending suspension cannot be passed even after there has been some gap. Similarly, if, before the employee exercising his right of claim for reinstatement, charge-sheet is framed, the vulnerability of the suspension order on account of the fact that charge-sheet is not framed within the three months period comes to an end.”

“Emphasis supplied”

12. Coming to the impugned order, extending the



period of suspension by a period of further four months, it is *sine qua non* to record the reasons in writing for doing so. Recording of reason by the concerned authority is an important safeguard to ensure observance of the rule of law. Mere writing, the charge-sheet alongwith evidence have not been made available by the District Magistrate, West Champaran, Bettiah leading to non submission of charge-sheet would not be suffice. Reasons to be recorded in writing is not an empty formality but a statutory requirement, hence the authority is under obligation to give cogent reason based on substantive material; all the more, if there is admitted laches on the part of the respondent authorities the delinquent ought not to be compelled to face the rigors of suspension, without justifiable reasons to be recorded therein.

13. In view of the discussions made hereinabove and the settled legal position as ruled by the Full Bench of this Court, the impugned order as contained in notification No. 501 dated 17.12.2024, issued by the respondent no. 2 is hereby set aside, subject to only verification, the petitioner had submitted his representation prior to extending the period of suspension and there being no criminal case/proceeding initiated or pending against the petitioner arising out of present enquiry.



14. The writ petition stands allowed. It is also directed that the respondent authorities shall also extend the benefit of subsistence allowance and its arrear thereof for the period of suspension, preferably within a period of four weeks from the date of the order of this Court.

(Harish Kumar, J)

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