

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4567 of 2025

=====

Shailendra Kumar Thakur, Son of Late Murali Thakur, Resident of Village-
Pathrahi Tola, P.S. Jhanjharpur (R.S. Shivir), District- Madhubani.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. The District Magistrate, Supaul.
3. The Sub-Divisional Officer, Nirmali, District-Supaul.
4. The Circle Officer, Marouna, District-Supaul.

... .. Respondent/s

=====

Appearance :

For the Petitioner/s	:	Mr. Binodanand Mishra, Sr. Advocate Mr. Avinash Sinha, Advocate Mr. Sandeep Kumar, Advocate Mr. Gunjan Kumar Jha, Advocate Ms. Ankita Tripathi, Advocate
For the Respondent/s	:	Dr. Raisul Haque, SC-10 Mr. Binay Kumar, Advocate

=====

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

2 27-03-2025 Heard the parties.

2. The petitioner is aggrieved with the prolonged suspension inflicted vide order dated 28.06.2024 contained in Memo No. 578-2/stha.

3. Learned Senior Advocate after taking this Court through the impugned order of suspension as contained in Annexure P/6 has contended that the petitioner was placed under suspension in contemplation of departmental proceeding under Section 9 of Bihar Government Servants (Classification, Control & Appeal) Rules, 2005, (in short Rules, 2005); and



admittedly the Memo of Charge has been served just a day before completing 90 days. It has also been urged to this Court that the petitioner has been placed under suspension for a pretty long time, but he has not been allowed subsistence allowance for certain period.

4. Notwithstanding the fact that Memo of Charge (prapatra ka) was served to the petitioner vide Memo No. 823-2 dated 17.09.2024 but, utter dismay to the petitioner till date no conducting officer as well as presenting officer have even been appointed and the departmental proceeding is kept stand still.

5. In the aforesaid premise learned Senior Advocate referring to a decision of the Apex Court in the case of ***Ajay Kumar Choudhary vs. Union of India through its Secretary & Anr., (2015) 7 SCC 291*** has vehemently contended that in any circumstances the prolonged suspension of an employee pending departmental proceeding shall cause serious prejudice to his right and entitlement. It is further contended that the Court has cautioned that “protracted periods of suspension, repeated renewal thereof, have regrettably become the norm and not the exception that they ought to be. The suspended person suffering the ignominy of insinuations, the scorn of society and the derision of his department, has to endure this excruciation even before he is formally charged with some misdemeanor,



indiscretion or offence”.

6. Mr. Binay Kumar, learned Advocate for the State has submitted that the petitioner has failed to point out any infirmity in the order of suspension passed under Rules, 2005; moreover, it shall continue unless it is modified or revoked by the same authority who or whose sub-ordinate authority has passed such order in terms of Rule 9C of Rules, 2005.

7. Before parting with the case, it would be worth benefiting to encapsulate paragraph no. 21 of the decision rendered by the Apex Court in the case of Ajay Kumar Choudhary (supra) :-

“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.”

8. Considering the limited grievance of the petitioner in the interest of justice, this Court deems it appropriate to dispose off the writ petition with a direction to the District Magistrate to consider the prayer of the petitioner for revocation of suspension in the light of the mandate of the Apex Court as well as the prescription provided under Rules, 2005 preferably within a period of 6 weeks’ from today and take appropriate action and pass reasoned and speaking order. It is also expected that the concerned respondent shall ensure payment of subsistence allowance for the period he has been deprived from the same.

(Harish Kumar, J)

supratim/-

U			
---	--	--	--

