

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No. 16714 of 2025

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Anubhuti Srivastava son of Late Rajendra Prasad, Resident of Flat No. 407 B,
Aparna Mansion, Tilak Nagar, Rukanpura, P.S. Rupaspur, District. Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through the Secretary, Urban Development and Housing Department, Government of Bihar, Vikas Bhawan, Patna.
2. The Secretary, Urban Development and Housing Department, Government of Bihar. Vikas Bhawan, Patna.
3. The Additional Secretary, Urban Development and Housing Department, Government of Bihar, Vikas Bhawan, Patna.
4. The Under Secretary, Urban Development and Housing Department, Government of Bihar, Vikas Bhawan, Patna.
5. The Additional Director General of Police, Economic Offence Unit, Shi Krishna Singh Path, Patna 800001.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Suraj Samdarshi, Advocate Mr.Avinash Shekhar, Advocate
For the Respondent/s	:	Mr.Prabhu Narayan Sharma, AC to AG
For the EOU	:	Mr.Rana Vikarm Singh, Advocate

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CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI
ORAL ORDER

4 17-12-2025 1. The petitioner is a suspended Executive Officer, Nagar Parishad, Siwan. An order of suspension was issued against him vide Notification No. 16 / Misc – 03-36 of 2025-3608 dated 4th of October, 2025. The notification by virtue of which the petitioner is suspended is recorded below:-

"सं० सं०-16/विविध-03-36/2025

(श्री अनुभूति श्रीवास्तव (बि०न०से०), नगर कार्यपालक पदाधिकारी, नगर वरिषद, सिवान के विरुद्ध आर्थिक अपराध इकाई, पटना के पत्रांक-7535 दिनांक- 26.08.2025 द्वारा उनके ज्ञात एवं वैध स्त्रोतों से अधिक



परिसम्पत्ति अर्जित करने के संबंध में आर्थिक अपराध थाना कांड संख्या-20/2025, दिनांक-18.08.2025 धारा-49/61 बी०एन०एस० 2023 एवं 13(2) सह पठित 13 (1) बी०/12 भ्र०नि०अधि०-1988 दर्ज कर उनके निवास एवं अन्य ठिकानों पर दिनांक-19.08.2025 को 04 (चार) स्थानों पर तलाशी/छापेमारी कर आय से अधिक सम्पत्ति अर्जित करने का गंभीर आरोप प्रतिवेदित किया गया है।

2. आर्थिक अपराध इकाई से प्राप्त सूचना के अनुसार प्रथम दृष्टया आय से अधिक सम्पत्ति अर्जित करने का आरोप प्रमाणित पाये जाने तथा उनका कृत्य बिहार सरकारी सेवक आचार नियमावली, 1976 के नियम-3 (i) (ii) एवं (iii) के प्रतिकूल पाये जाने के आलोक में सम्यक् विचारोपरांत बिहार सरकारी सेवक (वर्गीकरण, नियंत्रण एवं अपील) नियमावली, 2005 के नियम 9 (1) के तहत श्री अनुभूति श्रीवास्तव (बि०न०से०), नगर कार्यपालक पदाधिकारी, नगर परिषद, सिवान को आदेश निर्गत की तिथि से निलंबित किया जाता है।

3. निलंबन अवधि में श्री अनुभूति श्रीवास्तव को बिहार सरकारी सेवक (वर्गीकरण, नियंत्रण एवं अपील) नियमावली, 2005 के नियम 10 के तहत अनुमान्य दर से जीवन निर्वाह भत्ता देय होगा।

4. निलंबन अवधि में इनका मुख्यालय नगर विकास एवं आवास विभाग निर्धारित किया जाता है।

5. श्री अनुभूति श्रीवास्तव के विरुद्ध आरोप पत्र एवं विभागीय कार्यवाही का संकल्प अलग से निर्गत किया जायेगा।

बिहार राज्यपाल के आदेश से

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(राजीव रंजन तिवारी) सरकार के अवर सचिव।”



2. A plain reading of the order of suspension issued against the petitioner shows that Economic Offence P.S. Case No. 20 of 2025 dated 18th of August, 2025 under Sections 49 / 61 of the BNS, 2023 read with Section 13 (2) and 13 (1) b / 12 of the Prevention of Corruption Act, 1988 was registered on 19th of August, 2025 on the allegation that the petitioner had acquired assets disproportionate to his know source of income.

3. In view of institution of the above-mentioned criminal case, the petitioner was suspended under the provisions of Section 9 (1) of Bihar Government Servants (CCA) Rules, 2005.

4. The petitioner has approached this Court under Article 226 of the Constitution of India praying for setting aside / quashing the order of suspension passed against him vide order dated 4th of October, 2025.

5. It is submitted by the learned Advocate on behalf of the petitioner that previously a criminal case under the same allegation was registered against the petitioner by the Special Vigilance Unit in the year 2021. In that case also he was suspended. However, the said order of suspension was withdrawn by the Government vide Notification No. 4600 dated 31st of August, 2023 on the basis of representation submitted by



the petitioner and also due to the reasons that there was insufficient officer in the department to look after the works of the department.

6. It is submitted by the learned Advocate on behalf of the delinquent employee that he also submitted a representation to the Secretary, Urban Development and Housing Department, Bihar, Patna on 23rd of August, 2025 making elaborate statement regarding the accumulated income of the petitioner and his family members as well as the sources of the said income. However, without considering the said representation, the petitioner was suspended.

7. The learned Advocate for the petitioner next draws my attention to Rule 9 (1) of the Bihar Government Servants (CCA) Rule, 2005. The relevant portion of the Rule runs thus:-

*“9. **Order of Suspension.**-(1) The appointing authority or any authority to which the appointing authority is subordinate or the disciplinary authority or any other authority empowered in that behalf by the Government by general or special order, may place a government servant under suspension when-*

(a) a disciplinary proceeding against the Government Servant is contemplated or is pending, or

(b) in the opinion of the authority



aforesaid, the government servant has engaged himself or herself in activities prejudicial to the interest of the security of the State, or

(c) a case against the government servant in respect of any criminal offence is under investigation, inquiry or trial and the competent authority is satisfied that it is expedient to suspend the Government Servant in public interest.”

8. It is submitted by the learned Advocate on behalf of the petitioner that though the order of suspension did not take whether the petitioner was suspended under Clause A or Clause C of Rule 9 (1) of the 2005 Rules but the language of the concerned notification dated 4th of October, 2025 states that the order of suspension was made in terms of the provisions contained in Rule 9 (1) (c) of 2005 Rules.

9. However, the State-respondents have filed a counter affidavit, stating inter alia, that the suspension was made under Rule 9 (1) (a) of 2005 Rules. He further draws my attention to the impugned order (Annexure P/6).

10. The learned Advocate for the petitioner submits that Paragraph 1 of the notification, dated 4th of October, 2025 clearly states that the Economic Offence Unit has registered a criminal case against him for accumulation of money / property disproportionate to his assets to his income. Therefore, for all



purposes, the said order of suspension is under Rule 9 (1) (c) of 2005 Rules. It is further submitted that nowhere in the said notification, it is contemplated that the departmental proceeding shall be drawn against the petitioner.

11. The learned Advocate on behalf of the petitioner also refers to the decision of the Hon'ble Supreme in *State of Orissa v. Bimal Kumar Mohanty* reported in (1994) 4 SCC 126 in order to demonstrate that though an order of suspension is not a punishment, when an appointing authority or the disciplinary authority seeks to suspend an employee, pending inquiry or contemplated inquiry or pending investigation into grave charges of misconduct or defalcation of funds or serious acts of omission or commission, the order of suspension would be passed after taking into consideration the gravity of the misconduct sought to be inquired into or investigated and the nature of the evidence placed before the appointing authority and on application of the mind by disciplinary authority. It would not be as an administrative routine or an automatic order to suspend an employee. It should be on consideration of the gravity of the alleged misconduct or the nature of the allegations imputed to the delinquent employee.

12. In order to demonstrate the same principal, he also



refers to another decision of the Hon'ble Supreme in ***Union of India v. Ashok Kumar Aggarwal*** reported in ***(2013) 16 SCC 147*** where it is laid down that the power of suspension should not be exercised in an arbitrary manner and without any reasonable ground or as vindictive misuse of power.

13. In order to reiterate the same view taken by this Court, the learned Advocate for the petitioner refers to a decision of a Co-ordinate Bench in the case of ***Prabhash Kumar v. State of Bihar through Principal Secretary, General Administration Department, Government of Bihar & Ors*** reported in ***2018 SCC Online Pat 5228***. It is also pointed by the learned Advocate for the petitioner that Rule 9 makes the power of the appointing authority or disciplinary authority to suspend a delinquent employee discretionary and not directory or mandatory. Therefore, the administrative authority is under obligation to use the discretion of issuance of order suspension relying on the strong rule of natural justice.

14. In the instant case, natural justice was not followed. The petitioner's representation was not considered and he was suspended by way of non-consideration of relevant provisions and only because a criminal case was registered against him.



15. Learned Advocate on behalf of the State, on the other hand, refers to sub Rule (7) for Rule 9 of 2005 Rules. It is submitted by him that when an employee is suspended, it is the duty of the investigating agency to file charge-sheet within 3 months from the date of issue of suspension order failing which on expiry of 3 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 4 months:

Provided that after the expiry of extended period of 4 months, the suspension order shall stand revoked if the charge-sheet is not framed.

16. In the instant case, the Economic Offence Unit registered criminal case against the petitioner on 18th of August, 2025 being Economic Offence P.S. Case No. 20 of 2025. Three months shall expire on 4th of January, 2026 from the date of issuance of suspension order.

17. In view of such circumstances and having heard the learned counsels for the petitioner and the State-respondents, the instant writ petition is disposed of directing the Appointing Authority (Respondent No. 2) to consider the representation



filed by the petitioner to the Secretary Urban Development and Housing Department, Bihar, Patna on 23rd of August, 2025 to come to a decision prior to 4th of January, 2026, as to whether the representation and explanation of the petitioner is sufficient to explain his source of income and the accumulated assets. If the Appointing Authority (Respondent No. 2) finds the representation of the petitioner satisfactory, the order of suspension shall be revoked, failing which sub-Rule 7, Rule 9 of the Bihar Government Servants (CCA) Rules, 2005 shall come into force.

18. The instant writ petition is, accordingly, disposed of, on contest.

19. However, there shall be no order as to costs.

(Bibek Chaudhuri, J)

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