

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.803 of 2025

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Jawed Anwar Son of Amanullah @ Md. Amanullah, Resident of Village -
Bairiya, P.O. - Kolhua, Paighambarpur, P.S. - Ahiyapur, District- Muzaffarpur.

... .. Petitioner/s

Versus

1. The State of Bihar through District Education Officer, Siwan, Government of Bihar.
2. The District Programme Officer, Lekha Yojna, Siwan.
3. The District Programme Officer (Establishment), Siwan.
4. Sanjiv Kumar, Head Master, Akopur, Panchurkhi, Siwan.
5. District Magistrate, Siwan.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Syed Arshad Alam, Advocate Mrs. Anjum Perveen, Advocate Mr. Kamran Fazal, Advocate
For the Respondent/s	:	Mr. Md. Shadab Alam Wazdi, Advocate Mr. Md. Harun Quareshi, AC to SC-1

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CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL JUDGMENT

Date : 23-01-2025

Heard Mr. Syed Arshad Alam, learned counsel
appearing on behalf of the petitioner and Mr. Md. Harun
Quareshi, learned AC to SC-1 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:

*"a) For issuance of an appropriate writ in the
nature of Mandamus commanding and directing the
respondent authorities to stay the impugned order dated
18.10.24 by which order of suspension was passed without
adopting any legal procedure.*

*b) To further direct the respondent authorities
not to take any coercive steps during the pendency of this
writ application.*

c) For issuance of any other appropriate writ,



order, direction for which the writ petition would be found entitled under the facts and circumstances of the case.

d) For issuance of appropriate writ in the nature of Mandamus and quash the suspension order of 18.10.24 which was passed against the rule of law."

3. Learned counsel appearing on behalf of the petitioner submitted that the petitioner is aggrieved by an illegal order of suspension contained in Memo No. 7191 dated 18.10.2024, which has been issued on the basis of a complaint made by a candidate, who was found involved in cheating in the examination on 18.09.2024. The petitioner was assigned the duty of invigilator *vide* office order of the Block Education Officer contained in memo No. 517 dated 14.09.2024 in which the name of the school figures at Serial No. 93. In spite of the fact that the petitioner had given information regarding unfair means used by the examinee, namely, Surambadita, the petitioner was suspended without holding any preliminary enquiry in this regard on the basis of a complaint made by mother of the examinee. The enquiry report is *ex-parte* and, accordingly, the suspension order cannot be said to be well founded.

4. *Per contra*, learned counsel appearing on behalf of the State submitted that procedure as prescribed under Rule 9 of the Bihar Government Servants (Classification, Control &



Appeal) Rules, 2005, has been followed and there is no infirmity in issuing the suspension order in contemplation of initiating a departmental proceeding against the petitioner. He also informs that an FIR has been lodged against the petitioner under POCSO Act. The petitioner was suspended after holding of an enquiry and the suspension order cannot be interfered and the present writ petition is fit to be dismissed.

5. Heard the parties.

6. Having considered the rival submissions made on behalf of the parties, as well as, the fact that the petitioner was suspended on the basis of allegation made by the mother of the examinee, who was taking examination of Class-Vth and the petitioner was an invigilator, who had allegedly found that she was indulged in unfair means. The allegation against the petitioner is that of misbehaving with the child and a case has been registered under POCSO Act against the petitioner. Before order of suspension, the petitioner was not given due opportunity of show cause. The enquiry held against the petitioner can only be said to be an *ex-parte* enquiry.

7. Rule 9 of the CCA Rules, 2005 is reproduced hereinafter:

"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.

2) A Government Servant shall be deemed to have been placed under suspension by an order of appointing authority with effect from the following date:-

(a) from the date of his or her detention, if he or she is detained in custody, whether on a criminal charge or otherwise for a period exceeding forty-eight hours;

(b) from the date of his or her conviction, if, in the event of a conviction for an offence he or she is sentenced to a term of imprisonment exceeding forty-eight hours and is not forthwith dismissed or removed or compulsorily retired consequent to such conviction.

Explanation. - The period of forty-eight hours specified in clause (b) of this sub-rule shall be computed from the date of commencement of the imprisonment after the conviction and for this purpose intermittent periods of imprisonment, if any, shall be taken into account.

(3) (i) After the custody period under sub-rule (2), the period of deemed suspension shall be deemed to end when the Government Servant gives his joining and the joining shall be accepted.

(ii) If a decision is taken to suspend the Government Servant again under sub-rule (1)(a), or (b) or (c), then such action may be taken only after acceptance of joining and by issuing a separate order.

(4) Where a penalty of dismissal, removal or compulsory retirement from service imposed upon a Government Servant under suspension is set aside in appeal or on revision under these Rules and the case is remitted for further inquiry or action or with any other directions, the order of his suspension shall be



deemed to have continued in force on and from the date of the original order of dismissal removal or compulsory retirement and shall remain in force until further orders."

8. The suspension order contained in Memo No. 7191 dated 18.10.2024, which has been issued by the District Education Officer, don't qualify the requisite condition as laid down in Rule 9 of the CCA Rules, 2005 and the same is hereby set aside and quashed.

9. The authority concerned, if so finds, may take appropriate action in accordance with the provision as contained in CCA Rules, 2005.

10. With aforesaid observations/directions, the present writ petition stands disposed of.

(Purnendu Singh, J)

Niraj/-

AFR/NAFR	
CAV DATE	N/A
Uploading Date	27.01.2025
Transmission Date	N/A

