

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13227 of 2024

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Amit Kumar Son of Satya Narayan Prasad, R/o Village-Belaganj, P.S.-
Belaganj, District-Gaya.

... .. Petitioner

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. The Principal Chief Secretary, Urban Development Housing Department,
Government of Bihar, Patna.
3. The Special Secretary, Urban Development Housing Department,
Government of Bihar, Patna.
4. The Additional Secretary, Urban Development Housing Department,
Government of Bihar, Patna.
5. The Deputy Secretary, Urban Development Housing Department,
Government of Bihar, Patna.
6. The Officer on Special Duty, Urban Development Housing Department,
Government of Bihar, Patna.
7. Under Secretary, Urban Development and Housing Department,
Government of Bihar, Patna.
8. The District Magistrate, Patna.
9. The Additional Collector cum District Public Grievance Redressal Officer,
Patna.
10. The Executive Officer, Nagar Parisad, Sampatchak, Dist- Patna.

... .. Respondents

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Appearance :

For the Petitioner	:	Mr. S.B.K. Manglam, Advocate Mr. Ashok Kumar, Advocate
For the State	:	S.C-7
For the Resp. No.10	:	Mr. Krishna Kant Tiwary, Advocate

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CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
ORAL JUDGMENT
Date : 30-06-2026

The present writ petition has been filed under
Article 226 of the Constitution of India assailing the two
impugned orders, both dated 30.06.2024, issued by the



Department of Urban Development and Housing, Government of Bihar. The reliefs originally claimed in the writ petition are reproduced here-under :-

- “i. For quashing the order contained in letter no. 4316 dated 30.06.2024 (Annexure-P/1) issued by respondent no.5 whereby and whereunder on the basis of ex parte enquiry and enquiry report direction has been given to lodge F.I.R. against the petitioner.*
- ii. For quashing the order contained in Memo No. 4315 dated 30.06.2024 (Annexure-P/2) issued by respondent no.4 whereby and whereunder on the basis of ex parte enquiry and enquiry report the petitioner has been put under suspension and decision has been taken to initiate departmental proceeding against the petitioner.*
- iii. For giving direction not to make interference in day to day functioning of Nagar Parishad by the local administration without any enquiry, direction and approval by the State Government as contemplated under Sections 65, 66 and 67 of the Bihar Municipal Act, 2007.*
- iv. For grant of stay of the orders impugned till disposal of the writ petition.*
- v. Any other relief/reliefs which this Hon’ble Court may deem fit and proper.”*

2. The brief facts relevant for the adjudication



of the present petition, as culled out from the records, are that the petitioner is a member of the Bihar Municipal Service and was, at the relevant time, functioning as the Executive Officer of the Nagar Parishad, Sampatchak, a newly constituted urban local body within the District of Patna. By Notification No. 1973 dated 26.07.2022 (Annexure-P/3), issued under Section 12(9) of the Bihar Municipal Act, 2007, the petitioner, in his capacity as Executive Officer, was also entrusted with the powers and functions of the Administrator of the municipal authority, pending the holding of the general election to the said body.

3. It appears from the records that the Deputy Chief Councillor of the Nagar Parishad, Sampatchak, together with certain Ward Councillors, made a complaint addressed to the Chief Minister levelling a series of allegations against the petitioner touching upon the affairs of the Nagar Parishad. The said complaint was received on the web portal of the Chief Minister's e-Compliance Dashboard, bearing QR Code No. 2023037409, and was forwarded by the Department of Urban Development and Housing to the District Magistrate, Patna (respondent no.8) under Departmental Letter No. 935 dated 06.02.2024 for an enquiry. The District Magistrate, Patna, in



turn, caused the enquiry to be conducted through the Additional Collector-cum-District Public Grievance Redressal Officer, Patna (respondent no.9), who submitted his enquiry report, being Report No. 283 dated 12.04.2024, and the said report was forwarded by the District Magistrate to the State Government under cover of Letter No. 448 dated 13.06.2024.

4. Upon receipt of the said enquiry report, the Department of Urban Development and Housing, Government of Bihar, passed the two impugned orders. By the impugned order contained in Letter No.4316 dated 30.06.2024 (Annexure-P/1), issued under the signature of the Officer on Special Duty of the Department, the Executive Officer, Nagar Parishad, Sampatchak (respondent no. 10) was directed to lodge an F.I.R. against the petitioner and other persons stated to be at fault. Further, by the impugned order contained in Memo No. 4315 dated 30.06.2024 (Annexure-P/2), issued under the signature of the Under Secretary of the Department, the petitioner was placed under suspension in exercise of the power conferred by Rule 9(1) of the Bihar Government Servants (Classification, Control and Appeal) Rules, 2005 (hereinafter referred to as 'the Rules of 2005'), and a decision was taken to initiate departmental proceedings against him, his headquarters during



the period of suspension was fixed, and it was further directed that the charge-memo and the resolution for the departmental proceedings be issued separately.

5. From the records, it appears that the allegations against the petitioner are comprised in six heads, namely :-

- (i) Firstly, gross irregularity in the outsourced sanitation work, including deployment of workers in excess of the prescribed norms, non-maintenance of biometric attendance, non-deposit of E.P.F. and E.S.I.C. contributions, and misappropriation by way of fictitious attendance.*
- (ii) Secondly, payment to the outsourcing agency without the recommendation of the Nodal Officer-cum-City Manager.*
- (iii) Thirdly, irregularity and corruption in the procurement of sanitation materials through the Government e-Marketplace (GeM) portal.*
- (iv) Fourthly, illegal recovery of property tax and holding tax.*
- (v) Fifthly, use of a vehicle for official purposes contrary to the rules, and*
- (vi) Sixth, illegal appointments in the office of the Nagar Parishad.*

6. Aggrieved by the aforesaid impugned orders, the petitioner instituted the present writ petition on



30.08.2024. Vide order dated 05.09.2024, a Co-ordinate Bench of this Court directed that *status quo* be maintained in respect of Annexures P/1 and P/2, and the respondent-State was granted time to file a counter affidavit and to produce the records relating to the approval for the suspension of the petitioner.

7. During the pendency of the writ petition, the petitioner filed Interlocutory Application No. 01 of 2025 seeking amendment of the prayer portion of the writ petition in view of subsequent developments, which application was allowed by order dated 16.09.2025, whereupon the following prayers stood added to the writ petition:—

“i. For quashing the memo of charge framed against the petitioner dated 03.09.2024 issued through Letter No. 7514 dated 01.10.2024 to the petitioner.

ii. For giving direction not to proceed further on the basis of the said memo of charge and declare whole action illegal, arbitrary and without jurisdiction.”

8. By the same order dated 16.09.2025, this Court, taking note of the issuance of Departmental Letter No. 7514 dated 01.10.2024 during the subsistence of the order of *status quo*, had called upon the Officer on Special Duty of the Department to show cause as to why proceedings for contempt



be not drawn up against him. A show cause has been filed by the said officer.

9. The petitioner has, thereafter, filed Interlocutory Application No. 02 of 2025 seeking, in substance, a declaration that no charge-sheet having been served upon him within three months of the order of suspension dated 30.06.2024, the said order of suspension stood revoked with effect from 01.10.2024 by operation of sub-Rule (7) of Rule 9 of the Bihar CCA Rules, 2005, and that he is, accordingly, entitled to be taken back in service and to payment of his full salary with effect from 01.10.2024 after adjustment of the subsistence allowance already paid.

10. Learned counsel for the petitioner, at the outset, submitted that the impugned orders are wholly without jurisdiction inasmuch as they proceed upon an enquiry conducted at the instance of the District Magistrate, Patna, who is not clothed with any authority under the Bihar Municipal Act, 2007 to undertake an enquiry into the affairs of an urban local body. It was argued that the scheme of Chapter VIII of the said Act, and in particular Sections 65, 66 and 67 thereof, vests the power of direction, control, inspection and consequential action exclusively in the State Government, and that no other authority



can, of its own motion, embark upon an enquiry into the functioning of a municipality. It is, therefore, the case of the petitioner that the action of the District Magistrate in causing the enquiry to be conducted and all consequent proceedings arising therefrom are vitiated and cannot be sustained.

11. Elaborating upon the said submission, the learned counsel took this Court through the relevant statutory provisions of the Bihar Municipal Act, 2007, it was pointed out that Section 65 empowers the State Government to call for records, returns and reports from a municipal authority. Further, Section 66 empowers the State Government to depute its officers, not below the rank of a Deputy Secretary or an Under Secretary, as the case may be, to inspect or examine the affairs of a municipality and to report thereon, and Section 67 empowers the State Government, after considering the records called for under Section 65 or the report under Section 66, to require the municipal authority to take action, subject to the *proviso* that, unless immediate execution is considered necessary, the municipal authority shall first be afforded an opportunity of showing cause. It was contended that the mandatory statutory sequence so prescribed was given a complete *go-by* in the present case and that the entire action



runs contrary to the aforesaid statutory scheme.

12. It was further submitted that, even assuming the enquiry to have been occasioned at the instance of the State Government, the same is nonetheless vitiated for non-compliance with the rank requirement prescribed by Section 66 of the Act. It was pointed out that, Section 66 permits inspection or examination and report only by an officer not below the rank of an Under Secretary to the State Government, whereas, in the present case, the enquiry was conducted by the Additional Collector-cum-District Public Grievance Redressal Officer, Patna, who is not an officer of the requisite rank. It was, therefore, urged that the enquiry report and all consequential action founded thereupon are illegal and liable to be quashed on this ground alone.

13. It was next submitted that the enquiry was wholly *ex parte* and that the petitioner was at no stage issued any notice or afforded any opportunity of hearing during the course thereof. It was further submitted that the State Government, instead of conducting its own enquiry through a duly deputed officer of the rank as mandated by Section 66, had mechanically acted upon the recommendation of the District Magistrate and proceeded to suspend the petitioner and to direct



the lodging of an F.I.R. against him, without itself applying its mind, without issuing the show cause contemplated by the *proviso* to Section 67, and without affording the petitioner any opportunity of being heard. Such a course, it was emphatically argued, is in violation both of the express statutory safeguard contained in the *proviso* to Section 67 of the Act and of the principles of natural justice.

14. It is the next submission on behalf of the petitioner that the impugned orders offend the Constitutional scheme of municipal self-governance. Placing reliance upon the Seventy-fourth Amendment to the Constitution of India and the insertion of Part IX-A, it was argued that urban local bodies have been recognized as the third tier of governance and clothed with autonomy as institutions of self-Government, and that any executive interference destructive of that autonomy is not only impermissible but also unconstitutional. Reliance was placed upon the decision of the Hon'ble Supreme Court in ***Ravi Yashwant Bhoir v. District Collector, Raigad & Ors.***, reported as (2012) 4 SCC 407, wherein, though in the context of removal of an elected office-bearer, it was held that the exercise of any power having the effect of destroying a Constitutional institution is not only outrageous but dangerous to the



democratic set-up of the country, and that any action taken in violation of the procedure prescribed by law offends Article 21 of the Constitution and cannot be sustained. The Hon'ble Supreme Court in ***Ravi Yashwant Bhoir (supra)*** held as under:-

“Removal of an elected office-bearer

21. *The municipalities have been conferred constitutional status by amending the Constitution vide the 74th Amendment Act, 1992 w.e.f. 1-6-1993. The municipalities have also been conferred various powers under Article 243-B of the Constitution.*
22. *Amendment in the Constitution by adding Parts IX and IX-A confers upon the local self-government a complete autonomy on the basic democratic unit unshackled from official control. Thus, exercise of any power having effect of destroying the Constitutional institution besides being outrageous is dangerous to the democratic set-up of this country. Therefore, an elected official cannot be permitted to be removed unceremoniously without following the procedure prescribed by law, in violation of the provisions of Article 21 of the Constitution, by the State by adopting a casual approach and resorting to manipulations to achieve ulterior purpose. The Court being the custodian of law cannot tolerate any attempt to thwart the institution.*



23. *The democratic set-up of the country has always been recognised as a basic feature of the Constitution, like other features e.g. supremacy of the Constitution, rule of law, principle of separation of powers, power of judicial review under Articles 32, 226 and 227 of the Constitution, etc.*
24. *It is not permissible to destroy any of the basic features of the Constitution even by any form of amendment, and therefore, it is beyond imagination that it can be eroded by the executive on its whims without any reason. The Constitution accords full faith and credit to the act done by the executive in exercise of its statutory powers, but they have a primary responsibility to serve the nation and enlighten the citizens to further strengthen a democratic State.*
25. *Public administration is responsible for the effective implication of the rule of law and constitutional commands which effectuate fairly the objective standard set for adjudicating good administrative decisions. However, wherever the executive fails, the Courts come forward to strike down an order passed by them passionately and to remove arbitrariness and unreasonableness, for the reason that the State by its illegal action becomes liable for forfeiting the full faith and credit trusted with it.”*

15. Strong reliance was placed upon the judgment of this Court dated 27.02.2023 in ***Kumar Ritik v. The***



State of Bihar & Ors., Civil Writ Jurisdiction Case No.13223 of 2022, wherein, in respect of an enquiry conducted by the District Magistrate, Rohtas at Sasaram into the affairs of a Nagar Parishad without authorization of the State Government, a Co-ordinate Bench of this Court, after noticing Sections 65 to 67 of the Bihar Municipal Act, 2007, directed the Principal Secretary, Urban Development and Housing Department, to afford the petitioner therein an opportunity of putting forth his defence and thereafter to take an independent view as to whether any departmental proceeding was warranted. The Co-ordinate Bench in ***Kumar Ritik (supra)*** held as under:-

“4. The learned senior counsel has submitted that the power to make an enquiry/inspection is subject to its authorization by the State Government and deputation of officers for the said purpose, however, in the present case, the District Magistrate, Rohtas at Sasaram without any authority has conducted an enquiry into the affairs of the Nagar Parishad, Dehri and has also framed charges in Praptra ‘क’ and has sent the charge-sheet to the State Government for initiating a departmental proceeding against the petitioner herein which is contrary to the mandate of the provisions contained under Section 66 of the Bihar Municipal Act, 2007, nonetheless, it is simultaneously submitted that in case the State Government wishes to proceed ahead, it should first give an opportunity to the petitioner to



explain his side of the story and after considering the materials available on record, it should come to a categorical finding as to whether initiation of departmental proceeding is required or not, as far as the petitioner is concerned.

5. *Per contra, though the learned counsel for the respondent-State has vehemently opposed the reliefs sought for by the petitioner in the present case by submitting that gross irregularities have been found in the process of allotment of tender and the petitioner is also prima facie responsible for the said irregularities, but he has not denied the fact that the District Magistrate, Rohtas at Sasaram was not authorized by the State Government to make inspection or conduct an enquiry, however, it is submitted that in case this Court directs, the petitioner would definitely be given an opportunity of hearing and after considering all the materials available on record, a conscious decision would be taken regarding initiation of departmental proceedings qua the petitioner herein.*
6. *Having regard to the facts and circumstances of the case and having considered the submissions made by the learned senior counsel for the petitioner as also those made by the learned counsel for the respondents, I deem it fit and appropriate to direct the Principal Secretary, Urban Development and Housing Department, Government of Bihar, Patna, i.e. the respondent no.2 to grant an opportunity to the petitioner to put forthwith his defence and after considering the reply to be filed by the petitioner as also upon consideration of the report submitted by the*



District Magistrate, Rohtas at Sasaram, the respondent no.2 shall take an independent view of the matter, as to whether any departmental proceeding is required to be initiated against the petitioner herein or not.”

16. Reliance was equally placed upon the judgment dated 01.07.2024 in ***Rajesh v. The State of Bihar & Ors., Civil Writ Jurisdiction Case No. 18577 of 2023***, wherein, on materially similar facts concerning the Ramnagar Nagar Parishad and an enquiry constituted by the District Magistrate, West Champaran at Bettiah of his own volition, a Co-ordinate Bench of this Court reiterated the same principle, granted the petitioner therein liberty to file his reply, and directed that no coercive action be taken against him until the Principal Secretary took an independent view in the matter. It was urged that the impugned orders, having been passed in the teeth of the binding directions contained in the aforesaid two decisions, ought to be quashed on this short ground alone.

17. Next, it was submitted that a memo of charge is stated to have been drawn up against the petitioner on 03.09.2024, that is, two days prior to the order of *status quo* dated 05.09.2024, however, the same was forwarded to the petitioner only under Departmental Letter No.7514 dated 01.10.2024, that is, after the passing of the order of *status quo*,



with a direction to submit his written statement of defence. It was contended that the communication of the memo of charge and the continuation of the departmental proceeding, in the teeth of the subsisting order of *status quo*, are illegal, arbitrary and without jurisdiction.

18. The learned counsel next advanced a distinct and independent challenge to the continuance of the order of suspension. It was submitted that Sub-Rule (7) of Rule 9 of the Bihar C.C.A. Rules, 2005 mandates that a charge-sheet must be framed within three months from the date of issuance of the order of suspension, failing which, on the expiry of three months, the order of suspension shall stand revoked, unless the authority which issued the same, passes an order, for reasons to be recorded in writing, renewing the suspension for a further period, and that upon the expiry of the extended period, the order of suspension shall stand revoked if the charge-sheet is not framed. It was submitted that the effect of the said provision is no longer *res integra*, and strength was drawn from the decision of the Division Bench of this Court in ***Chandra Shekhar Prasad v. State of Bihar & Ors.***, reported as ***2008 SCC OnLine Pat 1020 : (2008) 1 PLJR 731***, wherein the Division Bench has held as under:-



- “2. Learned counsel for the appellant petitioner states that he challenged the order of suspension dated 3rd October, 2007, which does not disclose that it is in contemplation of any disciplinary enquiry to be initiated against him and no charge-sheet has been served against him, so far in fact. He further submits that no further order of extending the suspension order has been made up till now.
3. The learned Single Judge has interpreted the order along with materials placed by the Respondents on record, an order in contemplation of enquiry and dismissed the writ petition.
4. While dismissing the writ petition, the learned Single Judge directed for issuing charge-sheet within the prescribed time under Sub-Clause-7 of Rule 9 of Bihar Government Servant (Classification, Control and Appeal) Rules, 2005.
5. In the facts and circumstances and in the light of statements made by the learned counsel for the appellant petitioner, we do not propose to go into the merit of the order dated 03.10.2007. Accepting the statement of learned counsel for the appellant-petitioner to be correct the suspension order automatically comes to an end on expiry of three months from the date of order where no charge-sheet has been issued before the expiry of three months or no order extending the period of



suspension has been made by a reasoned order.

6. *Since according to the learned counsel for the appellant both things have not happened, the suspension order has come to an end automatically. However, in case either of the condition has been satisfied before 3rd January, 2008, the suspension order shall remain in force.*
7. *In the circumstances the appeal stands disposed of with the aforementioned observation.”*

19. It is the submission of the learned counsel that the order of suspension having been issued on 30.06.2024, the charge-sheet was required to be served upon the petitioner on or before 30.09.2024, and no order renewing the suspension, supported by reasons recorded in writing, having ever been passed, the order of suspension lost its force upon the expiry of three months, that is, with effect from 01.10.2024. It was pointed out that although the memo of charge is stated to have been drawn up on 03.09.2024, the same was not served upon the petitioner within the said period. The petitioner, by his representation dated 14.11.2024, categorically denied receipt of Departmental Letter No.7514 dated 01.10.2024 as also of any charge-sheet, and it was only under Letter No.8860 dated 21.11.2024 that the Officer on Special Duty, recording the



objection of the petitioner, forwarded a copy of the approved charge-sheet to the petitioner, followed by reminders, by which time the order of suspension had long since stood vacated by operation of law. It was, accordingly, submitted that the petitioner is entitled to be reinstated in service with consequential posting and to payment of his full salary with effect from 01.10.2024.

20. Adverting to the allegations, the learned counsel submitted that the petitioner, having been clothed with the powers of Administrator by Notification No. 1973 dated 26.07.2022, was fully competent to authorize payment to the outsourcing agency, and that no provision of the Bihar Municipal Act, 2007 mandates the prior recommendation of the Nodal Officer-cum-City Manager. As regards the procurement of sanitation materials and the engagement of personnel, it was submitted that, the Nagar Parishad being newly constituted and acutely short of equipment and staff, the purchases and engagements were duly authorized by resolutions of the Board of the Nagar Parishad passed in its meeting dated 27.01.2023 and were effected after following the prescribed procedure and on minimum wages. On the allegation of collection of property and holding tax, it was submitted that such action was



undertaken in discharge of a statutory duty and in compliance with successive directions of the State Government, including for the purpose of availing grants of the Fifteenth Finance Commission and, as regards the use of a vehicle, it was submitted that, no official vehicle being available to the newly created body, a vehicle was used at rates approved by the District Administration.

21. Lastly, in sum, it was the submission of the learned counsel that the impugned orders are without jurisdiction, arbitrary and capricious, having been passed in violation of Sections 65, 66 and 67 of the Bihar Municipal Act, 2007, the Seventy-fourth Constitutional Amendment, Article 21 of the Constitution of India, the principles of natural justice and the binding precedents of this Court, and are, therefore, liable to be quashed. Further it is submitted that, in any event, the order of suspension dated 30.06.2024 having stood automatically revoked under Sub-Rule (7) of Rule 9 of the Bihar C.C.A. Rules, 2005 with effect from 01.10.2024, the petitioner is entitled to reinstatement, consequential posting and payment of full salary from that date.

22. *Per contra*, the respondents have stoutly resisted the writ petition. In the counter affidavit filed on behalf



of respondent nos. 2 to 7, it has been submitted that the action impugned is neither *suo motu* nor without jurisdiction. It is stated that a complaint against the petitioner, alleging serious irregularities and corruption, was received through the web portal of the Chief Minister's E-Compliance Dashboard, bearing QR Code No.2023037409, and was forwarded by the Department to the District Magistrate, Patna under Departmental Letter No. 935 dated 06.02.2024 for an enquiry into the said complaint. It is asserted that the State Government, being vested by Chapter VIII and Sections 65, 66 and 67 of the Bihar Municipal Act, 2007 with the power of direction and control over the municipalities, was fully competent to depute the District Magistrate, and that the District Magistrate, did not act of his own motion.

23. It is further submitted on behalf of the answering respondents that the District Magistrate, Patna, in turn, caused an in-depth enquiry to be conducted through the Additional Collector Public Grievance Redressal-cum-District Grievance Redressal Officer, Patna, who submitted a detailed enquiry report, being Report No.283 dated 12.04.2024, running into 427 pages together with enclosures, and the said report was forwarded by the District Magistrate to the Department under



Letter No. 448 dated 13.06.2024. Thereafter, the competent authority, after due examination of the report and the material accompanying it, took an independent decision to proceed against the petitioner by issuing the impugned orders, i.e., Memo No. 4315 and Letter No. 4316, both dated 30.06.2024.

24. The respondent-State has further set out the findings recorded in the enquiry report, contending that the allegations against the petitioner were, on enquiry, found to be substantiated. In particular, it is submitted that, in respect of the sanitation work, biometric attendance, deduction of E.P.F. and segregation of waste were found not to have been carried out. In respect of the procurement through the GeM portal, a separate enquiry was recommended. Further, the recovery of property and holding tax without the prior approval of the State Government was found to be *prima facie* correct. The petitioner was also found to have kept an unregistered vehicle for administrative purposes and to have engaged one Sanjeev Pandey, stated to be a dismissed employee of the Nagar Panchayat, Silaw, on daily wages upon an important post without following any procedure such as advertisement or constitution of a selection committee. It is therefore argued by the answering respondents, that such conduct of the petitioner is



violative of Rule 3(1)(i), (ii) and (iii) of the Bihar Government Servants' Conduct Rules, 1976, and discloses misconduct, negligence, arbitrariness and indiscipline on the part of the petitioner.

25. It is further submitted that, pursuant to the aforesaid enquiry, a memo of charge in '*Prapatra Ka*' was drawn up against the petitioner on 03.09.2024, and the petitioner was thereafter called upon, by Departmental Letter No. 7514 dated 01.10.2024, to submit his written defence. Thus, it is submitted that the petitioner was afforded full opportunity in the departmental proceeding and there is no violation of the principles of natural justice. It is further submitted that the order of suspension passed under Rule 9(1) of the Rules of 2005 is an interim measure in contemplation of the departmental proceeding and not a punishment. It is categorically been submitted with emphasis that the disciplinary jurisdiction of the State over its own officers operates independently of, and is unaffected by, the regulatory provisions of Sections 65 to 67 of the Bihar Municipal Act, 2007, which operate upon the municipal authority as an institution. On these grounds, the respondent-State has prayed that the writ petition, being devoid of merit, be dismissed.



26. A counter affidavit has also been filed on behalf of respondent no. 10, i.e., the Executive Officer, Nagar Parishad, Sampatchak, wherein it has been submitted that the answering respondent is a subordinate authority whose role and participation in the matter is limited, and that whatever action was taken against the petitioner was taken by the State Government and its competent officers. It is submitted that, on receipt of Letter No.4316 dated 30.06.2024, the answering respondent informed the officer-in-charge of the concerned police station and requested him to take necessary action in the matter.

27. Heard and considered the submissions of the learned counsel for the parties and perused the materials available on record.

28. Admittedly, the petitioner, a member of the Bihar Municipal Service, was functioning as the Executive Officer of the newly constituted Nagar Parishad, Sampatchak. Upon a complaint received on the Chief Minister's e-Compliance Dashboard and forwarded by the Department to the District Magistrate, Patna by Letter No. 935 dated 06.02.2024, the District Magistrate caused an enquiry to be made through the Additional Collector-cum-District Public Grievance



Redressal Officer, whose report dated 12.04.2024 was forwarded to the State Government by Letter No. 448 dated 13.06.2024. Acting upon that report, the State Government passed the two impugned orders dated 30.06.2024, directing the lodging of an F.I.R. and placing the petitioner under suspension while deciding to initiate departmental proceedings against him.

29. The case of the petitioner, in substance, is in three-folds, *firstly*, that the enquiry was not conducted by an officer of the rank as mandated by Section 66 of the Bihar Municipal Act, 2007 and was wholly *ex parte*, and could not, therefore, form the foundation of any action. *Secondly*, that the State Government acted upon the recommendation of the District Magistrate mechanically, without issuing the show cause as contemplated by the *proviso* to Section 67 and without any independent application of mind. And *thirdly*, that the order of suspension stood automatically revoked under Rule 9(7) of the Bihar CCA Rules, 2005 and could not, in any event, be continued indefinitely. The respondents, *per contra*, contend that the District Magistrate was duly deputed by the State Government, and the suspension under Rule 9(1) is a non-punitive interim measure governed by the said Rules independently of Sections 65 to 67. Further that the petitioner



had full opportunity in the departmental proceeding, inasmuch as, after framing of charge, show cause was issued to him.

30. The first and decisive question is whether the enquiry on which the impugned orders rest answers the requirements of the statute. Chapter VIII of the Bihar Municipal Act, 2007 vests the power of superintendence over municipalities in the State Government alone, and Section 66 permits it to depute an officer, not below the rank of a Deputy Secretary or an Under Secretary to the State Government, as the case may be, to inspect or examine the affairs of a municipality and to report. Pertinently, the scheme admits of no intermediary, the State Government must itself decide to cause the inspection or examination, and an officer of the prescribed rank must carry it out.

31. The respondents seek to source the authority of the District Magistrate in Departmental Letter No.935 dated 06.02.2024. However, upon a careful perusal of the same, it is clear that the said letter does not bear that character. Issued under the signature of the Project Officer-cum-Deputy Director, it does no more than forward the complaint received on the Chief Minister's e-Compliance Dashboard to the District Magistrate for necessary action and an action-taken report. It



neither is, nor purports to be, an independent decision of the State Government to depute an officer under Section 66. Even otherwise, the District Magistrate did not himself carry out the enquiry but entrusted the exercise to the Additional Collector-cum-District Public Grievance Redressal Officer, Patna, which is a sub-delegation which the statute does not permit, on the settled principle of *delegatus non potest delegare*. The purported deputation thus fails at every link of the chain, and the enquiry stands reduced to one conducted by an officer whom the statute does not recognize for the purpose.

32. The petitioner, moreover, is a member of the Bihar Municipal Service. The District Magistrate occupies no place in the disciplinary chain of the said service. The doctrine that a preliminary fact-finding enquiry may be caused through any officer can have no application where the legislature has occupied the field with a specific statutory provision, that an enquiry into the affairs of a municipality must conform to Section 66, and the bar operates even where the person ultimately proceeded against, is an officer of the municipality and not an elected functionary. A disciplinary proceeding whose sole foundation is an enquiry conducted in the teeth of the statute is vitiated at its root, notwithstanding that the formal



orders which were issued by the competent departmental authority.

33. A Coordinate Bench of this Court in *Nazia Bagum v. State of Bihar & Ors. (CWJC No. 10912 of 2016, decided on 23.01.2017)* had held as under:-

*“...The Court would also like to observe that even though the basis for issuing notice to the petitioner being the report forwarded by the District Magistrate may technically not be vitiated in law, but then, once a proceeding is initiated, before the Government can form an opinion, it has to get an enquiry done in accordance with Section 25(5) of the Act, the requirement of the other provisions of the Act, which in the present case would be Section 66 of the Act relating to the power of the State Government to depute officers to make inspection or examination, the requirement was that a full fledged enquiry with proper notice to the petitioner, by a person not below the rank of a Deputy Secretary to the State Government was required, and based upon such report, the matter was required to be heard by the Government and a decision taken. In this regard, the Court is tempted to quote from the decision of the Hon’ble Supreme court in the case of **Ravi Yashwant Bhoir (supra)** in which it has been held as under:*

“19. Further, the expression “misconduct” has to be construed and understood in reference to the subject-matter and context wherein the term occurs taking into



consideration the scope and object of the statute which is being construed. Misconduct is to be measured in the terms of the nature of misconduct and it should be viewed with the consequences of misconduct as to whether it has been detrimental to the public interest.

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34. In a democratic institution, like ours, the incumbent is entitled to hold the office for the term for which he has been elected unless his election is set aside by a prescribed procedure known to law or he is removed by the procedure established under law. The proceedings for removal must satisfy the requirement of natural justice and the decision must show that the authority has applied its mind to the allegations made and the explanation furnished by the elected officebearer sought to be removed.

35. The elected official is accountable to its electorate because he is being elected by a large number of voters. His removal has serious repercussions as he is removed from the post and declared disqualified to contest the elections for a further stipulated period, but it also takes away the right of the people of his constituency to be represented by him. Undoubtedly, the right to hold such a post is statutory and no person can claim any absolute or vested right to the post, but he cannot be removed



without strictly adhering to the provisions provided by the legislature for his removal (Vide: Jyoti Basu v. Debi Ghosal, Mohan Lal Tripathi v. District Magistrate, Rae Bareilly and Ram Beti v. District Panchayat Raj Adhikari).

36. *In view of the above, the law on the issue stands crystallized to the effect that an elected member can be removed in exceptional circumstances giving strict adherence to the statutory provisions and holding the enquiry, meeting the requirement of principles of natural justice and giving an incumbent an opportunity to defend himself, for the reason that removal of an elected person casts stigma upon him and takes away his valuable statutory right. Not only the elected office-bearer but his constituency/electoral college is also deprived of representation by the person of their choice.*

37. *A duly elected person is entitled to hold office for the term for which he has been elected and he can be removed only on a proved misconduct or any other procedure established under law like “No Confidence Motion” etc. The elected official is accountable to its electorate as he has been elected by a large number of voters and it would have serious repercussions when he is removed from the office and further declared disqualified to contest the election for a further stipulated period.*



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56. *The explanation furnished by the appellant for not holding the meeting and acceptance of tender by the Council itself and not by the appellant, has not been considered at all. No reasoning has been given by the statutory authority for reaching the conclusions. We fail to understand as to on what basis such a cryptic order imposing such a severe punishment can be sustained in the eye of law.*

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68. *To conclude, we are of the considered opinion and that too after appreciation of the entire evidence on record that the first charge proved against the appellant for not calling the meeting of Council, did not warrant the order of removal and the explanation furnished by the appellant could have been accepted. Other charges could not be proved against the appellant in view of the fact that the tenders at a higher rate were accepted by the Council itself and the appellant could not be held exclusively reasonable for it”.*

For the reasons aforesaid, the writ petition succeeds. The impugned order contained in Memo No.3331 dated 26.05.2016 passed by the respondent no. 2 is set aside. The Court has been informed that during the interregnum period, the respondent no. 8 has been elected to the post of Chairman. Since the matter was pending in this



Court and there was no fault or laches on the part of the petitioner and also in view of the settled principle of lis pendens, all subsequent events/actions, pursuant to setting aside of the order impugned, have but necessarily to be set aside and it is ordered accordingly.”

34. In the aforesaid decision of **Nazia Bagum (supra)** an enquiry routed through the District Magistrate was held not to satisfy Section 66. In **Geeta Devi v. State of Bihar & Ors. (CWJC No. 1063 of 2020)**, the forwarding of a Vigilance Department report for action against, *inter alia*, the officers and employees of a Nagar Panchayat was held to be beyond jurisdiction and patently illegal. In **Kumar Ritik (supra)** and **Rajesh (supra)**, on facts indistinguishable from the present, enquiries conducted at the instance of the District Magistrate against Executive Officers were held contrary to the mandate of Section 66, with the direction that the Principal Secretary afford the officer an opportunity and take an independent view as to whether any departmental proceeding was warranted at all.

35. In the present case, the manner in which the State Government proceeded fares no better. The enquiry report was forwarded to the Department on 13.06.2024, and on a single day, i.e., 30.06.2024, the petitioner was suspended, a decision to initiate a departmental proceeding was taken and a



direction to lodge an F.I.R. was issued, without the petitioner having been heard at any stage of the wholly *ex parte* enquiry, and without the show cause which the *proviso* to Section 67 obliges the State Government to issue to the municipal authority, unless immediate execution is considered necessary. An *ex parte* report of an officer not competent under the statute is the very antithesis of the independent application of mind which has been mandated by the Coordinate Bench of this Court in the case of ***Kumar Ritik (Supra)*** and ***Rajesh (Supra)*** and also held by the Hon'ble Supreme Court in the case of ***Ravi Yashwant Bhoir (supra)***. An action of such gravity which neither satisfies natural justice nor demonstrates application of mind to the allegations cannot be sustained.

36. For the aforesaid reasons, the impugned orders dated 30.06.2024, resting on the enquiry, which does not conform to the mandate of Section 66, initiated at the instance of an authority alien both to the scheme of Chapter VIII of the Act and to the disciplinary structure governing the Bihar Municipal Service, and passed in breach of the *proviso* to Section 67 and of the principles of natural justice, cannot be sustained.

37. Now, coming to the challenge founded upon



Sub-Rule (7) of Rule 9 of Bihar C.C.A. Rules, 2005, which mandates that a charge-sheet be framed within three months of the order of suspension, failing which the suspension shall stand revoked, unless the authority which issued it, by an order recording reasons in writing, renews it for a further period. The respondents contend that the memo of charge was drawn up on 03.09.2024, i.e., within three months. The question, therefore, is whether the mere drawing up of a charge-sheet, without its service upon the delinquent, satisfies the Rule. In the considered opinion of this Court, failure to supply the charge-sheet to the delinquent fails to satisfy the requirement. A charge-sheet acquires legal efficacy only upon its communication to the delinquent, since it is service alone which enables him to know the accusation against him and enables him to answer it. A contrary construction would permit the authority to defeat the very object of the Rule by drawing up a charge-sheet and withholding it while the suspension lingers on. The direction of the Hon'ble Supreme Court in ***Ajay Kumar Choudhary v. Union of India***, reported as **(2015) 7 SCC 291**, is itself couched in terms of service and in the aforesaid decision, the Hon'ble Supreme Court has held as under :-

"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. ..."

38. The Division Bench of this Court in ***Chandra Shekhar Prasad (supra)*** has likewise held that the suspension order automatically comes to an end on the expiry of three months where no charge-sheet has been issued to the delinquent before such expiry and no reasoned order of extension has been passed.

39. Tested on these principles, the memo of charge, though stated to have been drawn up on 03.09.2024, was admittedly not served upon the petitioner on or before 30.09.2024. Departmental Letter No.7514, by which it is stated to have been forwarded, itself came to be issued only on 01.10.2024. Pertinently, the petitioner, by his representation had categorically denied its receipt as also of any charge-sheet, and it is only under Letter No.8860 dated 21.11.2024 that the Officer on Special Duty, recording the objection of the petitioner, forwarded a copy of the approved charge-sheet to him. Significantly, the Department has itself, by Letter No.3619 dated 05.10.2025, cancelled Letter No.7514 together with all



reminders relatable thereto. No reasoned order renewing the suspension was ever passed. The order of suspension, therefore, stood revoked by operation of Rule 9(7) of the Bihar C.C.A. Rules, 2005 with effect from 01.10.2024.

40. This Court in ***Ranjeet Kumar Rajak v. State of Bihar***, reported as ***2025 SCC OnLine Pat 3169*** has held as under:-

*“53. It is abundantly clear from the aforequoted judgments that continued and repeated suspension of the petitioner is impermissible. Upon perusal of the impugned order by which the petitioner was again suspended, this Court finds that the respondent authorities have failed to make out any justifiable reason for keeping the petitioner under such continued and repeated suspension besides the bald statement that there have been serious disciplinary proceedings pending against the petitioner, more-so when no progress is there in the aforesaid disciplinary proceedings. The respondents have themselves flouted the stipulated time frame set for concluding these proceedings. They have also failed to carry out periodic review/assessment of the suspension which is in complete violation of the law laid down by the Hon’ble Supreme Court in **Ajay Kumar Choudhary (supra)**.*

54. The power to suspend is inherent in the



Government, however, the exercise of such power is not unfettered and can not be exercised in an unreasonable and arbitrary manner. The suspension is an instrument to ensure fairness and propriety of the disciplinary proceedings, but a prolonged, repeated and indefinite suspension absorbs punitive character. Suspension which is intended to be an interim measure can not be permitted to become de-facto penalty / punishment that too, sans the guilt even being established.”

41. Therefore, in the present case, the continuance of the suspension cannot be countenanced. Protracted suspension was deprecated as punitive by the Hon’ble Supreme Court in ***Ajay Kumar Choudhary (supra)*** and in ***State of Tamil Nadu v. Promod Kumar, IPS***, reported as ***(2018) 17 SCC 677***. This Court in ***Ranjeet Kumar Rajak (supra)*** has held that a continued suspension, unsupported by recorded reasons and unaccompanied by periodic review, assumes a punitive character. The petitioner has remained under suspension since 30.06.2024, i.e., for nearly two years, without any periodic review or contemporaneous reasons, the suspension has, therefore, become punitive and is unsustainable.

42. In the result, on the one hand, the procedure adopted against the petitioner being contrary to Sections 66 and



67 of the Bihar Municipal Act, 2007 and to the principles of natural justice, and on the other hand, the order of suspension having stood revoked by operation of Rule 9(7) of the Rules of 2005 and having, in any event, assumed a punitive character, the impugned orders contained in Letter No. 4316 and Memo No. 4315, both dated 30.06.2024, cannot be sustained and are, accordingly, quashed and set aside together with all consequential orders including the memo of charge dated 03.09.2024.

43. Accordingly, the respondents are directed to reinstate the petitioner in service forthwith with consequential posting. The order of suspension having stood revoked with effect from 01.10.2024. The petitioner shall be entitled to all consequential benefits in accordance with law, after adjustment of the subsistence allowance, if any, already paid to him. Consequential benefits shall be computed and paid to the petitioner within a period of eight weeks from the date of receipt/production of a copy of this judgment.

44. It shall, however, be open to the respondents to proceed against the petitioner afresh, if so advised, strictly in accordance with the statutory scheme contained in Sections 65 to 67 of the Bihar Municipal Act, 2007 and after affording him a



reasonable opportunity of hearing.

45. In view of the quashing of Letter No. 4316 dated 30.06.2024, no further step shall be taken on the strength thereof. Any F.I.R. stated to have been registered in pursuance of the said letter is concerned, it shall be open to the petitioner to seek such remedies in respect thereof as are available to him in law before the appropriate forum.

46. Adverting, lastly, to the show cause filed by the Officer on Special Duty pursuant to the order dated 16.09.2025, it is stated in the show-cause that the memo of charge had been drawn up on 03.09.2024, i.e., prior to the order of *status quo* dated 05.09.2024 and the Letter No.7514 dated 01.10.2024 came to be issued inadvertently. Further upon legal advice, the Department, by Letter No.3619 dated 05.10.2025, had cancelled the said letter and all reminders relatable thereto. The answering respondent has tendered an unconditional and unqualified apology.

47. Taking note of the corrective steps taken and the apology tendered, this Court is satisfied that no wilful or deliberate disobedience of the order dated 05.09.2024 is made out. The apology is accepted and the proceeding initiated by the order dated 16.09.2025 is, accordingly, dropped.



48. The present writ petition is allowed in the above terms.

49. Pending interlocutory application(s), if any, stand disposed of.

(Sandeep Kumar, J)

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AFR/NAFR	N.A.F.R.
CAV DATE	N/A.
Uploading Date	06.07.2026
Transmission Date	

