
(2013) 02 JH CK 0130
In the Jharkhand High Court
Case No : WP (S) No. 5854 of 2012

Dr. Amresh Narayan Sinha

APPELLANT

Vs

State of Jharkhand and Others

RESPONDENT

Date of Decision : 28-02-2013

Acts Referred:

Penal Code, 1860 (IPC) — Section 120B, 201, 420, 467, 468
Prevention of Corruption Act, 1988 — Section 13(1), 13(2)

Citation : (2013) 3 JLJR 680

Hon'ble Judges : Narendra Nath Tiwari, J

Bench : Single Bench

Advocate : Ram Kishore Prasad, for the Appellant;

Judgement

Narendra Nath Tiwari, J.—In this writ petition, the petitioner has prayed for quashing the Memo No. 307 dated 14.3.2012 (Annexure-3), whereby the petitioner has been put under suspension in contemplation of initiation of departmental proceeding. The grievance of the petitioner is that even after lapse of about a year, no departmental proceeding has been initiated against the petitioner and he has been unnecessarily kept under mental agony and in stigmatized state without any cogent ground. Under that circumstance, the petitioner has prayed for quashing the order of suspension.

2. A counter affidavit has been filed on behalf of the respondents opposing the writ petition and stating, inter alia, that the petitioner has been put under suspension in the light of criminal case registered under Sections 120B, 201, 420, 467, 468, 471 of the Indian Penal Code and Sections 13(2) r/w 13(1) of P.C. Act, 1988. Since the petitioner is an accused in the said case, investigation of which was given to the C.B.I., he has been placed under suspension.

3. I have heard learned counsel for the parties and considered the facts and materials on record.

4. On perusal of the impugned order of suspension, I find that the petitioner was

put under suspension in contemplation of initiation of departmental proceeding, in view of lodging of an F.I.R. against him.

5. It is an admitted position that even after lapse of a year, the respondents have not served any charge-sheet and no departmental proceeding has been initiated. In course of hearing, the respondents had taken time on 5.2.2013 to make a specific statement to that regard. A counter affidavit has been filed, thereafter, repeating the same statement.

6. As aforesaid, the petitioner has been put under suspension in contemplation of a departmental proceeding and not for lodging an F.I.R. against the petitioner. The department has, thus, not been able to bring on record any reason for not initiating any departmental proceeding and prolonging the petitioner's suspension for such a long time.

7. From the order, it appears that the petitioner has been put under suspension under Rule 49A(1) of Civil Services (Classification, Control and Appeal) Rules. Under the said provision, the appointing authority or any other competent authority, may place a Government servant under suspension, if any disciplinary proceeding is contemplated or pending against him.

8. Admittedly, no charge-sheet has been served to the petitioner and no departmental proceeding is pending against him. The respondents cannot be allowed to go on contemplating for initiation of proceeding for an indefinite period after putting the petitioner under suspension on that ground.

9. In view of the above, this writ petition is disposed of directing the respondents to take appropriate decision on the petitioner's prayer for revocation of his suspension, within three weeks from the date of receipt/production of a copy of this order and communicate the same to the petitioner, in writing. If the respondents fail to take any decision and inform the petitioner in writing, the petitioner's suspension shall stand automatically revoked on 31st March, 2013.