

**(2007) 11 PAT CK 0032**  
**In the Patna High Court**  
**Case No : CWJC No. 15006 of 2007**

Santlal Chaudhary

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

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**Date of Decision :** 27-11-2007

**Acts Referred:**

**Citation :** (2008) 1 PLJR 349

**Hon'ble Judges :** Sheema Ali Khan, J

**Bench :** Single Bench

**Final Decision :** Allowed

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## Judgement

Sheema Ali Khan, J.—Heard the counsel for the petitioner and counsel appearing on behalf of the respondents. The petitioner has challenged the order of suspension issued vide letter No. 215 dated 4.10.2007 by which he has been put under suspension under Rule 9(1)(3)(2) of the Bihar Government Servant (Classification, Control and Appeal) Rules, 2005.

2. The facts of the case are that the petitioner was earlier suspended on 18.10.2006. The order of the suspension and initiation of the departmental proceeding were challenged vide C.W.J.C. No. 7679 of 2007.

3. This court while hearing the matter directed as follows:

"Accordingly, the respondents are directed to stay the departmental proceeding for one year from today. All attempt should be made for disposal of vigilance case within this period. Petitioner is also directed to co-operate with the criminal case for its early disposal. In case criminal proceeding is not concluded within one year, the respondents can proceed with the departmental proceeding and conclude it in accordance with law."

4. However, despite the order of this court the impugned order was passed suspending the petitioner vide Annexure 12 on 26.9.2007. The order of suspension refers to the order in the bail filed on behalf of the petitioner.

5. Learned counsel for the petitioner submits that a fresh order of suspension has been passed under Rule 9 of the aforesaid rules. There is doubt In my mind an order of suspension can be issued under the aforesaid rules. However, the question that arises here that in the meantime there is an order of this court by which the departmental proceeding has been stayed for a period of one year since the date of the passing of the order which is on 31.7.2007. While passing the order in the writ application this court had also observed that the steps should be taken to conclude the criminal case filed by the Vigilance Department pending against this petitioner and it was further directed that the petitioner was to co-operate in the criminal proceeding.

6. Learned counsel for the petitioner submits that the Department has taken a decision to suspend this petitioner without considering the order passed in C.W.J.C. No. 7679 of 2007. It is obvious that the authorities were not aware of the order of this court. It is for this reason that the petitioner preferred not to file a contempt application, as according to the petitioner it appears that the noting in the file (Annexure 14) show that the respondents were not aware of the order of this Court and as such, a case of willful disobedience of the order of this court would not stand the test for making out a clear cut case of contempt.

7. I, accordingly, direct that the order of suspension contained in Annexure-13 issued on 4.10.2007 is quashed and the authorities are directed to consider the order of this court passed on 31.7.2007 in C.W.J.C. No. 7679 of 2007 before passing any fresh order.

8. A copy of this order may be handed over to A.A.G. II. This writ application is allowed to the extent mentioned above.