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**(2007) 01 PAT CK 0052**  
**In the Patna High Court**  
**Case No : CWJC No. 14632 of 2006**

Shambhu Kumar Sisodiya

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

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**Date of Decision :** 25-01-2007

**Acts Referred:**

**Citation :** (2007) 2 PLJR 697

**Hon'ble Judges :** Ajay Kr. Tripathi, J

**Bench :** Single Bench

**Advocate :** Arun Kumar and Bipin Kumar, for the Appellant; Nilu Agrawal, for the Respondent

**Final Decision :** Allowed

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## Judgement

Ajay Kr. Tripathi, J.—Heard learned counsel for the parties. The petitioner makes a limited prayer in the present writ application wherein he is aggrieved by the fact that despite his giving joining on 23.9.2003, after his release from jail, his joining has not been accepted and he is not being permitted to work since he was released by the High Court. His contention is that after his release in terms of Rule 99 of the Bihar Service Code he ought to have been permitted to continue on duty as a matter of right, unless the State Government has passed any order of suspension under Rule 100 as provided therein.

2. A counter affidavit has been filed by the State where no averment has been made with regard to this aspect of the matter whether the State Government had passed any order at all under Rule 100 of the Bihar Service Code.

3. The contention of the petitioner is that there is no order under Rule 100 and in that view of the matter he ought to be treated on duty and should be allowed to work and function as a Government servant and in this regard he is relying on a judgment reported in Vidya Singh Vs. The State of Bihar and Others, . A Division Bench of this Court in the abovementioned case has categorically held that the law mandates passing of a suspension order under Rule 100 of the Bihar Service

Code and in absence of any order under Rule 100, the suspension of the Government employee would be deemed to have been revoked and he would be treated to be on duty after giving his joining.

4. In view of the above factual and legal position this Court is of the opinion that the respondents shall not be correct in not accepting joining of the petitioner after his release from jail despite no order being produced or being available under Rule 100.

5. In that view of the matter, the writ application to that extent is allowed and the respondents are directed to accept the joining of the petitioner.

6. This Court, however, gives liberty to the authorities to take such suitable action against the petitioner, if so advised, in view of the fact that in the counter affidavit a list of charges have been brought about on the record, which indicates that the respondent authorities intend to initiate a departmental proceeding against him. They may take such suitable actions, if so advised, and this Court expresses no opinion of the merits of the case.

7. In view of the above, this writ application is allowed with the directions above. Before parting, this Court also indicates that the petitioner shall be entitled to his salary and other allowances under law in view of the fact that this Court has given directions to accept his joining in absence of any order passed under Rule 100 of the Bihar Service Code.