

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.1249 of 2016
Arising out of
Civil Writ Jurisdiction Case No.3587 of 2016**

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Santosh Kumar Singh, Son of Sri Ram Pravesh Singh, Resident of Village Parshewa, P.S. - Simra, District - Aurangabad, Bihar. Presently posted as Panchayat Sevak in Nawinagar Block, Aurangabad.

.... Petitioner- Appellant/s

Versus

1. The State of Bihar through the Principal Secretary, Panchayat Raj Department, Government of Bihar, Patna.
2. The District Magistrate, Aurangabad.
3. The D.D.C., Aurangabad.
4. The District Panchayati Raj Officer, Aurangabad.
5. The Block Development Officer, Deo, Aurangabad.
6. The Block Development Officer, Nawinagar, Aurangabad.

.... Respondents- Respondent/s

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Appearance :

For the Appellant/s : Mr. Rajeev Ranjan Prasad, Advocate
Mr. Nilanjan Chatterjee, Advocate
Ms. Surabhi, Advocate

For the Respondent/s : Mrs. Nutan Sahay, AC to AAG-12

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**CORAM: HONOURABLE THE ACTING CHIEF JUSTICE
And
HONOURABLE MR. JUSTICE SUDHIR SINGH**

**ORAL JUDGMENT
(Per: HONOURABLE THE ACTING CHIEF JUSTICE)**

Date: 31-01-2017

The challenge in the present Letters Patent Appeal is to an order passed by a learned Single Bench of this Court on 6th May, 2016 whereby, in respect of non-payment of subsistence allowance,



the appellant was given opportunity to satisfy the concerned authority about his presence in the Headquarter and then to take an appropriate decision for payment of subsistence allowance.

Admittedly, the disciplinary proceedings, during pendency of which the appellant was suspended, are still pending and that the suspension of the appellant stands revoked.

Learned counsel for the appellant submits that his presence is not marked in contravention of Rule 10 of the Bihar Gram Panchayat (Appointment of Secretary, Rights and Duties) Rules, 2011.

In the counter affidavit filed, the stand is that the appellant has not marked his attendance in the Block Office, Nawinagar, and therefore, he is not entitled to subsistence allowance.

At this stage, when the disciplinary proceedings are pending, we do not wish to comment as to whether the appellant has marked his presence in the Block Office, Nawinagar, or not, but the fact remains that any order regarding payment of subsistence allowance or allowances over and above the subsistence allowance has to be passed by the disciplinary authority after conclusion of the proceedings.

Admittedly, the suspension has been revoked. The grievance of the appellant is that he has not been paid his salary even after his suspension stands revoked. The payment of salary again



would be dependent on the fact whether the appellant has reported for duty or not. Therefore, we do not wish to say regarding his grievance in respect of non-payment of salary. If he has reported for duty, he is to be paid the salary and allowances in accordance with law.

Consequently, the Letters Patent Appeal is dismissed.

(Hemant Gupta, ACJ)

(Sudhir Singh, J)

Sunil/-

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