

Court No. - 34

Case :- WRIT - A No. - 14133 of 2023

Petitioner :- Arun Kumar Singh

Respondent :- State Of U.P. And 4 Others

Counsel for Petitioner :- Prabhakar Awasthi, Adarsh Shukla, Ashwani Kumar Singh

Counsel for Respondent :- C.S.C., Sudhir Bharti

Hon'ble Ajit Kumar, J.

1. Heard Sri Ashwani Kumar Singh, learned counsel for the petitioner, Sri Sudhir Bharti, learned counsel for the Gaon Sabha and learned Standing Counsel for the State-respondents.

2. Despite time granted repeatedly, neither the State respondents have filed any counter affidavit, nor have obtained any instructions in the matter whereas Additional Chief Standing Counsel submits that letters have been written previously to the authorities on 25.08.2023, 18.09.2023 and 16.10.2023. Therefore, it appears that the State respondents are not interested in contesting the matter and, so it is taken that the State-respondents are unable to defend the allegations made in the writ petition.

3. Counter affidavit of-course has been filed on behalf of Gaon Sabha stating therein that the resolution was passed by the Gaon Sabha to dispense with the services of the petitioner or to terminate his contract of employment as Gram Rojgar Sewak on account of certain inquiries conducted in the matter. This resolution of the Gaon Sabha is dated 30.08.2022 whereas I find that show cause notice was issued to the petitioner by Block Development Officer on 04.11.2023.

4. Here, it is important to mention that admittedly after a private complaint was received in respect of the credentials of the petitioner, the Block Development Officer had constituted two-member committee consisting of Assistant Development Officer and Additional Program Officer, MNREGA vide his order dated 11.01.2022. It appears that notice was issued to the petitioner on 06.04.2022 by the Secretary, Gram Panchayat to which, petitioner submitted reply on 30.05.2022. However, thereafter no final inquiry report was ever prepared or if prepared, it was never served upon the petitioner.

5. From the perusal of the show-cause notice dated 04.11.2022 also, it clearly transpires that no inquiry report was ever supplied to the petitioner. Even otherwise, before petitioner could have submitted reply to the notice 04.11.2022, the Gaon Sabha had already proceeded to terminate the services of the petitioner by adopting a resolution dated 30.08.2022 that subsequently stood approved on 17.09.2022.

6. In view of the above, the impugned orders have been passed admittedly in gross violation of principles of natural justice, inasmuch as, there is no fact finding report available. Though State has not filed any response, it will be deemed that no such report was ever prepared nor resolution refers to any such inquiry report and State-respondents do not have anything to defend the impugned orders. In the circumstances, the resolution adopted by the Gaon Sabha dated 30.08.2022, its approval order dated 17.09.2022 and the consequential order dated 16.05.2023 passed by the Block Development Officer deserve to be quashed.

7. Accordingly, this petition succeeds and is allowed. The order dated 30.08.2022 and the approval thereof vide order dated 17.09.2022 and the consequential order dated passed by the Block Development Officer, Motichak, Kushinagar dated 16.05.2023 are hereby quashed.

8. Petitioner's contract of employment shall revive for next one year with the same status as it had prior to passing of the order impugned. However, it remains open for the respondent to take decision afresh but this time after complying with the principles of natural justice and holding due inquiry with due participation of the petitioner.

Order Date :- 9.11.2023

P Kesari