

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.7466 of 2015

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1. Awadh Bihari Mehta Son of Late Kanhaiya Singh resident of Kushwaha Bhawan, Sharda Market Nawada, P.S. - Ara Nawada, District- Bhojpur.

.... Petitioner/s

Versus

1. The State of Bihar through Chief Secretary, Patna.
2. Principal Secretary Home Department, Patna, Bihar.
3. Divisional Commissioner, Patna.
4. The Principal Secretary Personnel and Administrative reform department Patna, Bihar.
5. The Union of India through Ministry of Personnel Public Grievances and Pensions department of Personnel and training. New Delhi.
6. To the Secretary, Ministry of Home affairs, Grih Mantralaya, New Delhi.
7. Department of Administrative reform and Public Grievances Vth floor, Sardar Patel Bhawan, Parliament District, New Delhi.
8. Mr. Pankaj Kumar Pal, District Magistrate, Ara, Patna,

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Rajendra Nath Sinha

For the Respondent/s : Mr. Anjani Kumar,AAG-6

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CORAM: HONOURABLE THE ACTING CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH)

Date: 10-11-2015

This application under Article 226 of the Constitution of India, in the nature of public interest litigation, has been filed seeking a direction to the respondents, State of Bihar, to remove respondent No.8 from the post of District Magistrate, Ara, there being serious allegations against him of murdering Sub-Divisional Officer and his two sub-ordinate staff in Manipur, while he was posted as Deputy Commissioner of Ukhrul District.

2. The petitioner has claimed to be the State President



of Bharat Vikash Morcha, a political party, and resident of Ara under the Bhojpur District. According to him, the actions of respondent No.8 seriously affects the functioning of the petitioner and the workers of his political party. The petitioner has brought on record an order passed by the Central Administrative Tribunal, Principal Bench, dated 30.08.2011, passed in OA No. 3921 of 2010, filed by respondent No.8. He had filed an application before the Tribunal to quash an order, dated 02.06.2010, by which he had been allowed *inter cadre* deputation from Manipur-Tripura Cadre to Bihar Cadre of IAS for a period of three years from the date of assumption of charge. He also sought for a direction to sanction him *inter cadre* transfer on permanent basis, either to the State of Bihar or any other State except the States in North-Eastern Region in view of extreme hardship and threat perception to him.

3. The grievance of the petitioner is that the Central Government and the State Government of Bihar are not proceeding in accordance with the Indian Administrative Service Cadre Rules, 1954, and the respondent No.4 has been given plum postings by the State Government of Bihar.

4. Considering the nature of writ sought for in the present proceeding filed by way of public interest litigation and the averments made, we are of the opinion that the present petition lacks *bona fide*. In any view of the matter, public

interest litigation cannot be entertained in service matters. In this regard, reference may be made to the decisions of the Supreme Court in cases of ***Giraesh Shrivastava and ors. Vs. State of M. P. & ors (2010)10 SCC 707, Haribansh Lal Vs. Sahodar Prasad Mahto and ors (2010) 9 SCC 655, Dattaraj Nathuji Thawra vs. State of Maharashtra and ors (2005) 1 SCC 590 and Dr. Duryodhan Saha and ors. vs. Jitendra Kumar Mishra & ors (1998) 7 SCC 273.***

5. This being a purely service matter, the public interest litigation cannot be entertained and is, accordingly, dismissed.

7. There shall be no order as to costs.

(I. A. Ansari, ACJ)

(Chakradhari Sharan Singh, J)

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