

IN THE HIGH COURT OF JUDICATURE AT PATNA**Civil Writ Jurisdiction Case No.928 of 2001**

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Ashok Kumar Yadav, son of Sri Jai Lal Yadav, resident of village- Parichauch, P.S. Marauna, Dist. Supaul.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Special Officer, Notified Area Committee, P.S. Nirmali, District- Supaul.
3. Vice Chairman, Notified Area Committee Nirmali, P.S. Nirmali, District- Supaul.

.... Respondent/s

Appearance :

For the Petitioner/s : Mr. Amit Kumar, Advocate.
Mr. Shyameshwar Dayal, Advocate.

For the Respondent/s : Mr. Amiya Kunal, AC to AAG-10
Mr. P.N. Saahi, Advocate.

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL JUDGMENT

Date: 22-07-2015

This is an application seeking quashing of an order dated 31.10.2000 passed by the Special Officer, Nirmali Notified Area Committee whereby the petitioner's service as Peon of the Committee has been terminated with immediate effect. Reason which has been assigned in the impugned order for termination of the petitioner's appointment is an order passed by this Court in C.W.JC. No. 10289 of 1998 dated 18.08.1999, which has been brought on record by way of Annexure-6 to a Supplementary Affidavit filed on behalf of the petitioner.

It is the case of the petitioner that he was appointed against the post of Tax Peon in Nirmali Notified Area Committee on



daily wage basis with effect from 12.10.1998 and such appointment was made permanent with effect from 04.01.1999. Learned counsel for the petitioner has contended that there is no such order passed in C.W.J.C. No. 10289 of 1998 on the basis of which the petitioner's appointment was required to be cancelled. He has contended that a Division Bench of this Court by the said order dated 18.08.1999 had recorded, without any adverse observation, regarding the stand of the Respondent Committee that its term expired on 04.01.1999. Learned counsel for the petitioner contends that the question to make the petitioner's appointment permanent was taken prior to the date of expiry of the term of Notified Area Committee i.e. 04.01.1999. He has accordingly contended that the reason assigned for cancelling the petitioner's appointment by the impugned order is not sustainable.

He has further contended that the said order was passed without giving the petitioner any opportunity of the appointment.

I have perused the impugned order dated 31.10.2000. Learned counsel for the petitioner appears to be right in his submission that if any adverse decision was required to be passed by the Notified Area Committee, to the interest of the petitioner, it could have been done only after giving him a due opportunity of being heard.

I, therefore, set aside the impugned order dated



31.10.2000 on the limited ground that before issuance of the said order, no notice giving due opportunity of hearing to the petitioner was given. The said order dated 31.10.2000 is, accordingly, quashed. The respondents are directed to pass an order afresh, if so advised, after giving the petitioner an opportunity of hearing after making him know of the specific grounds on which his service in Notified Area Committee is proposed to be terminated. Any such decision, in the light of the present order must be taken within the period of six months from the date of receipt/production of a copy of this order. The petitioner's reinstatement shall depend upon the decision of the competent authority, to be taken in compliance of the present order.

This application is allowed accordingly.

There shall be no order as to costs.

(Chakradhari Sharan Singh, J)

Md. Ibrarul/-

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