

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13034 of 2013

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Md. Khurshid Alam Ansari Son Of Late Zainul Abedin Ansari Resident Of
Village- Milki Chak, P.O.- Kazifattu Chak, P.S.- Barbigaha, District-
Sheikhpura, (Bihar)

.... Petitioner/s

Versus

1. The State Of Bihar through the State Selection Commission, Government of Bihar, Patna
2. Chief Secretary, Government of Bihar, Patna
3. Principal Secretary, Panchayati Raj Department, Government of Bihar, Patna
4. State Election Commission, Bihar, Patna through the Secretary
5. District Magistrate, Patna
6. Ajay Kumar Singh, District Panchayati Raj Officer, Bhojpur, Ara

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr.Surendra Kumar Singh, Advocate.
For the Respondent/s : Mr. A.Ujjwal, SC 25

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CORAM: HONOURABLE MR. JUSTICE MIHIR KUMAR JHA
ORAL JUDGMENT

4 20-03-2015 Heard learned counsel for the parties as with regard to

the following relief prayed in this writ application:

"1.(a) To issue an appropriate writ, order or direction for quashing a notification issued under Memo no. 4010 dated 29.06.2013 by Principal Secretary , Panchayat Raj, Government of Bihar, whereby and whereunder the petitioner has been transferred as District Panchayat Raj Officer, Patna as in place of petitioner the respondent no. 6 is ordered to be posted on wholly erroneous grounds without looking into the facts and circumstances of the case as also ignoring the guidelines issued by the State Election Commission on 11.02.2011.

(b) To issue further appropriate writ, order or direction commanding the respondents to allow the petitioner to work as a District Panchayat Officer, Patna."

2. Mr. Surendra Kumar Singh, learned counsel for the



petitioner, has straight way invited attention of this Court to the impugned order of transfer of the petitioner dated 29.06.2013 wherein a reference has been made to the letter of the Collector, Patna dated 28.06.2013 and submits that the aforesaid impugned order of transfer of the petitioner was made only in view of the aforementioned letter of the Collector of Patna District. He, in this regard, has also explained that the Collector of Patna District, in his letter dated 28.06.2013 had actually made certain allegation against the working of the petitioner and therefore, the resultant impugned order of transfer will have to be held as a penal transfer.

3. In this case, no counter affidavit has been filed as yet in a period of more than one and a half year inasmuch as this writ application was filed on 09.07.2013 and an opportunity was also given to the learned counsel for the State to file counter affidavit by an order of this Court 07.08.2013.

4. The respondent no. 6, who had been transferred in the place of the petitioner has also been served notice but no one has appeared on his behalf. Thus, the facts asserted by the petitioner that the impugned order of transfer by way of penal transfer remains wholly uncontroverted. This Court also would find from the wordings of the transfer order that it was passed on the recommendation of the Collector of the Patna District.



5. True, it is that the Collector, Patna had not directed for transfer of the petitioner but only for taking disciplinary action against him. This Court is not aware as to whether any action by way of departmental proceeding has been taken against the petitioner or not. It however must be kept in mind that whatever was reported against him by the Collector, Patna had definitely constituted serious misconduct.

6. At the same time, such transfer of the petitioner could not have been made the recourse to ease out the petitioner from the place because there may also be possibility of the Collector of Patna District carrying certain bias against the petitioner on account of discharge of duty by the petitioner in capacity of District Panchayat Raj Officer, Patna.

7 In that view of the matter, while this Court would not quash the order of transfer of the petitioner because it has already been acted upon by the petitioner and the respondent no. 6 has already been functioning as District Panchayat Raj Officer, Patna for more than last one and half year and that is why the prayer for interim relief of stay of transfer order was also rejected by this Court but at the same time having regard to the peculiar facts and circumstances of this case, this Court would direct the State Government to reconsider the issue of transfer of the petitioner in

true perspective on a self contained representation to be filed by the petitioner and take a final decision in according with the law. This exercise must be completed expeditiously preferably within a period of three months from the date of receipt of a copy of this order, subject to the general guidelines for transfer laid down from time to time by the State Government.

8. With the aforementioned observation and direction, this writ application is disposed of.

(Mihir Kumar Jha, J)

Sujit/-

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