

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.1007 of 2012

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Nitin Kumar Vatsya, S/O Late Gopal Ji Jha, R/O Laxmi Tola, Deharia, P.S.-
Katihar, District – Katihar.

.... Petitioner/s

Versus

1. The State of Bihar through the Secretary cum Commissioner, Department of Health, New Secretariat, Patna.
2. The District Magistrate -cum- Chairman, District Health Society, Katihar.
3. The Civil Surgeon, Katihar -cum- Member Secretary, District Health Society, Katihar.
4. The District Programme Manager (DPM), District Health Society (DHS), Katihar.
5. The Executive Director, State Health Society, Bihar (SHSB), Patna.
6. The District Informatics Officer - NIC Member Selection Committee (DHS), Katihar.
7. The District Welfare Officer -cum- Member Selection Committee, DHS – Katihar.
8. The Nazarat Deputy Collector -cum- Member Selection Committee (DHS) – Katihar.
9. Krishna Kumar Sah, S/O Anil Chand Sah, R/O Village- Mortazapur (Khurial), P.O.- Sihpur, P.S.- Azam Nagar, District- Katihar, Pin – 855113.
10. Pankaj Kumar C/O Sri Jagdish Pd. Das, R/O Naya Bazar, Nariyar Road, P.O./District- Saharsa, Pin – 852201.

.... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Madhav Roy Ms. Kanti Jha Mr. Navin Kumar
For the Respondent/s	:	Mr. Madhav Pd. Yadav, GP-23 Ms. Meera Singh, AC to GP-23

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

ORAL JUDGMENT

Date: 22-08-2016

Heard Mr. Madhav Roy, learned counsel appearing for the
petitioner and counsel for the State.

The petitioner is aggrieved by the order bearing Memo
No.387 dated 4.8.2011 of the Civil Surgeon –cum- Member
Secretary, District Health Society, Katihar (hereinafter referred to as



‘the Society’), whereby the contract entered in between ‘the Society; and the petitioner was cancelled on grounds that the petitioner by his acts backed by wrongful motives as well as negligence in preparation of Data Base had tried to provide benefit to a candidate seeking appointment to the post of Data Operator –cum- Assistant.

Mr. Madhav Roy, learned counsel appearing for the petitioner while admitting to the fact situation that the appointment of the petitioner was on a contract and that the termination has resulted in appointment of somebody else, restricts his argument to the grounds assigned in the order of termination which besides attributing negligence on the petitioner to provide benefit to a candidate has also cast stigma by attributing wrongful motives.

Mr. Roy has referred to the charge memo, a copy of which is placed at Annexure-2 bearing Memo No.318 dated 25.7.2011 to submit that whereas the charge memo shows caused the petitioner, as to why his contract be not terminated for his act of negligence, the punishment order while resting on negligence also includes the charge of ‘wrongful motive’ which is beyond the charge mentioned in the charge memo.

Having heard learned counsel for the parties and considering the undisputed position where the foundation of the order of termination besides resting on the charge of ‘negligence’

also accompanies the charge of ‘wrongful motive’ on the petitioner which is admittedly beyond the charge memo, the termination order dated 4.8.2011 to the extent it upholds the charge of ‘wrongful motives’ on the petitioner stands modified to the extent of deletion of the said charge from the order of termination which now would exclusively rests on his alleged negligence.

The order of termination is accordingly modified and the writ petition is allowed to the aforementioned extent.

(Jyoti Saran, J)

SKPathak/-

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	05-09-2016
Transmission Date	N.A.