

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.2803 of 2014

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Rakesh Ranjan Son Of Sri Arun Kumar Singh Resident Of Mohalla- Nakhaspind,
P.S. Malsalami, Patna City, District Patna Petitioner

Versus

1. 1. The State Of Bihar Through Principal Secretary, Rural Development
Department, Government Of Bihar, Main Secretariat, Patna- 15
2. The Secretary Rural Development Department, Government Of Bihar,
Main Secretariat, Patna- 15
3. The Deputy Development Commissioner, Nalanda, District Nalanda
4. The District Magistrate, Nalanda
5. Bihar Rural Development Society, Patna Through Its President

.... .. Respondents

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Appearance :

For the Petitioner/s : Mr. Chittaranjan Sinha, Sr advocate and
Mr. AKHILESH DUTTA VERMA

For the Respondent/s : Mr. Anil Kumar, AC to SC10.

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CORAM: HONOURABLE MR. JUSTICE SAMARENDRA PRATAP SINGH
ORAL JUDGMENT

Date: 21-04-2016

The petitioner was appointed on contract basis as Programme Officer on 30.8.2007 in Rural Development Department by the Government. The petitioner was arrested on 22.12.2010 while accepting bribe from one Suresh Bind which gave rise to lodging of Vigilance Police Station case no. 108 of 2009, dated 11.11.2009. Noticing the grave allegation against the petitioner, the District Magistrate-cum-District Programme Officer, Nalanda cancelled his service contract with effect from 10.11.2009, vide order dated 28.7.2010. The petitioner filed an appeal on 5.8.2010 against order, dated 28.7.2010, before the Principal Secretary, Rural Development Department, which too

was rejected vide order, dated 29.4.2014. While rejecting the appeal of the petitioner, the Principal Secretary observed that persons engaged on contract basis would not be deemed to be government servants and as such, Bihar CCA Rules would not be applicable in their cases.

The petitioner submits that the original order of termination has been passed by the District Magistrate, who was not a competent authority to do so in view of the fact that his appointment was made by the government. He further submits that petitioner could have been removed by the appointing authority, namely, the Principal Secretary, Department of Rural Development, after following the conditions mentioned in clause 5 which provides for giving of one month's notice. In support of his submission, petitioner has relied upon Circular, dated 22.09.2009, issued by Rural Development Department. In the aforesaid circular, it is categorically stated the District Magistrate would be competent to remove the personnel other than the District Programme Officer. He next submits that the impugned order is stigmatic in nature and as such, the same could not have been passed without giving show-cause to him. In support of his submission, the petitioner has relied on the order, dated 07.09.2010, passed by Hon'ble Mr. Justice Navin Sinha, in

C.W.J.C. No. 9022 of 2010.

Counsel for the State submits that the allegations against the petitioner are grave in so much so he was caught red handed while accepting bribe by the State Vigilance Department. He further submits that the principles of natural justice have been fully complied with as he has been given ample opportunity of hearing by the Principal Secretary.

Heard counsel for the petitioner as well as learned counsel for the State.

I find that the original order of termination passed by the District Magistrate on 28.7.2010 is without jurisdiction as under the circular, appointment of the petitioner was made by the government. It was only Principal Secretary who was competent to pass such order either in terms of clause 5 of the Agreement or in terms of order, dated 07.09.2010 passed in C.W.J.C. No. 9022 of 2010.

As the petitioner succeeds on technical issues, the writ application is allowed and the impugned order of termination is set aside with liberty to the respondents to proceed afresh in accordance with law in view of the nature of allegations.

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(Samarendra Pratap Singh, J)