

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.14073 of 2014

Uma Kant Verma son of Sri Jaglal Prasad Singh resident of village Chandhos, P.S. Sigori, District Patna.

.... Petitioner

Versus

1. The State of Bihar through Principal Secretary, Department of Rural Development, Government of Bihar, Patna.
2. Principal Secretary, Department of Rural Development, Government of Bihar, Patna.
3. Secretary, Department of Rural Development, Government of Bihar, Patna.
4. Deputy Secretary, Department of Food Development, Government of Bihar, Patna.
5. Commissioner, Manrega-cum-Chief Executive Officer, Department of Rural Development, Government of Bihar, Patna.
6. District Magistrate-cum-District Programme Coordinator, Gaya.
7. Deputy Development Commissioner cum Chief Executive Officer, Gaya.
8. Director, District Rural Development Agency, Gaya.

.... Respondents.

Appearance :

For the Petitioner : Mr. Ajay Kumar Thakur,
Mr. Imtyaz Ahmad,
Mr. Ravi Ranjan,
Mr. Amit Kumar.

For the Respondents : Mr. Sanjay Kumar, AC to AAG-6

CORAM: HONOURABLE MR. JUSTICE SAMARENDRA PRATAP SINGH

ORAL JUDGMENT

Date: 15-03-2016

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

The petitioner was appointed on contract basis as Programme Officer on 02.08.2007 in Rural Development Department by the Government. The petitioner was arrested on 22.06.2012 while accepting bribe from one, Ashok Kumar, Panchayat Rojgar Sevak. Noticing the grave allegation against the petitioner, the District



Magistrate-cum-District Programme Officer, disengaged him from service. The petitioner filed an appeal before the Principal Secretary, Rural Development Department, which too was rejected on 21.04.2014. While rejecting the appeal of the petitioner, the Principal Secretary observed that persons engaged on contract basis would not be deemed to be the government servant 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. 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. 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.

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.

I find that the original order of termination passed by the District Magistrate on 13.07.2012, contained in Annexure-2, 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 succeed 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.

(Samarendra Pratap Singh, J)

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