

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.7529 of 2014

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1. Kamlesh Ram, Son of Late Pachaku Ram, resident of village- Jaypur, P.S.- Mahendia, District- Arwal

.... Petitioner/s

Versus

1. The State of Bihar through the principal Secretary, Welfare Department, Government of Bihar, Patna
2. The Director, Welfare Department, Government of Bihar, Patna
3. The Collector, District- Arwal
4. The District Programme Officer, District- Arwal
5. The Sub-Division, Magistrate, Sub-Division Arwal, District- Arwal
6. The Sub-Divisional Welfare Officer, Sub-Division, Arwal
7. The Block Development Officer Block- Arwal, District- Arwal
8. The Block Welfare Officer Block- Arwal, District- Arwal

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Arvind Prasad Singh

For the Respondent/s : Mr. GA5-JAI SHANKAR BARNWAL

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA

ORAL JUDGMENT

Date: 27-07-2017

Heard both sides.

2. The petitioner by filing this writ petition seeks quashing of the order dated 20.01.2014 as contained in Memo No. 31 (Annexure-3) by which the District Magistrate, Arwal cancelled the selection of the petitioner as Vikash Mitra of Gram Panchayat Jaypur situated in Block-Kaler.

3. The petitioner assailed the order of his termination on the ground that no notice was issued to the petitioner before termination of his appointment on the post of Vikash Mitra and, therefore, the order is



not sustainable. It is further submitted that although authority concerned extended the period and, therefore, the order is not sustainable.

4. On the contrary, the State filed counter affidavit and submitted that the appointment of the petitioner was illegal *ab initio* and in contraventions of the directions meant for appointment of Vikash Mitra. In Jaypur Panchayat, the most populous caste is Chamar and the candidate of Chamar should have been selected for appointment on the post of Vikash Mitra. The petitioner belongs to Rajwar caste and he was not at all eligible for appointment, as the population of Rajwar caste is less than the population of Chamar. It is further submitted that selection of Vikash Mitra is purely *ad hoc* and contractual. The letter of appointment, itself, contains the terms and conditions of selection of Vikash Mitra and the condition of cancellation of contract.

5. The point falls for consideration whether the petitioner was illegally removed from the post of Vikash Mitra without giving any opportunity to be heard.

6. Annexure-2, the letter of appointment of the petitioner, itself, shows that the petitioner was selected on the post of Vikash Mitra of Gram Panchayat Jaypur situated in Kaler block, District Alwar for eleven months. The selection of the petitioner was on contract. Immediately after selection of the petitioner, one Shakti Das complained about the illegal selection of the petitioner, as the petitioner does not



fulfill the criteria for his appointment on the post of Vikash Mitra on the ground that the petitioner does not belong to populous caste of the Panchayat. The directives for appointment for selection on the post of Vikash Mitra clearly stipulates that the persons belonging to populous caste of the village should be appointed on the post of Vikash Mitra.

7. Therefore, I find that the selection of the petitioner for appointment on the post of Vikash Mitra on contractual basis is bad *ab initio* and the enquiry officer also found that the selection of the petitioner was made in contraventions of the directives. Since the petitioner appointed on temporarily and contractual basis and the appointment of the petitioner is against the directives, the appointment of the petitioner, itself, is illegal and the same is made against the directives. Therefore, I find that the petitioner does not require to be noticed before cancellation of his selection.

8. Having considered the facts, I do not find any illegality in the order. Accordingly, the writ petition is dismissed as devoid of any merit.

(Prabhat Kumar Jha, J)

KKSINHA/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	16.08.2017
Transmission Date	NA

