

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1882 of 2016

In

Civil Writ Jurisdiction Case No.14073 of 2014

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1. The State Of Bihar through the Principal Secretary, Rural Development Department Government of Bihar, Patna
 2. The Principal secretary Rural Development Department, Government of Bihar, Patna
 3. The Secretary Department of Rural Development Government of Bihar, Patna
 4. The Deputy Secretary, Department of Rural Development Government of Bihar, Patna
 5. The Commissioner, Manrega- cum-chief Executive officer, Department of Rural Development Government of Bihar, Patna
 6. The District Magistrate -cum-District Programme coordinator, Gaya
 7. The Deputy Development Commissioner-cum-Chief Executive officer, Gaya
 8. The Director, District Rural Development Agency, Gaya

... .. Appellant/s

Versus

Uma Kant Verma S/o Jaglal Prasad Singh Resident of village- Chandhas,
P.S.Sigori, District-Patna

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Sanjay Prasad, AC to AAG 4
For the Respondent/s : Mr. Amit Kumar

CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI
and
HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI)

Date : 14-12-2017

Delay of 159 days in preferring the appeal is condoned. I.A.
No.7831 of 2016 is allowed. Matter is thereafter taken up on
merits.



Heard counsel for the State and the counsel for the private respondent.

The challenge is to the order dated 15.03.2016. The State is aggrieved because the learned Single Judge set aside the order of rescindment of the contract of the private respondent, who was appointed on contract as a Programme Officer on 02.08.2007 by the Rural Development Department, Government of Bihar. On 22.06.2012, he was arrested for accepting bribe and obviously, the law took its course. Because of the conduct as well as the allegation against the private respondent since he was not a permanent employee of the State, therefore, they decided to annul the contract.

The learned Single Judge got carried away by the fact that the rescindment order of the contract has been issued by the Collector whereas his appointment was by the Principal Secretary of the Rural Development Department as if the private respondent had the protection under Article 311 of the Constitution of India. One thing which we have noticed is that the decision was also assailed by the private respondent right up till the Principal Secretary and the Principal Secretary had also accepted the decision of annulment of contract for the reasons indicated in the order, which is Annexure 1 and 2 to the writ application.



The basic error, which has been committed by the learned Single Judge in allowing the writ application, is that he lost sight of the fact that the hiring of the private respondent was on contract. If the contract was rescinded, he has common law remedy and not remedy under Article 226 of the Constitution of India.

The appeal is allowed. The impugned order passed by the learned Single Judge is set aside.

(Ajay Kumar Tripathi, J)

(Rajeev Ranjan Prasad, J)

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AFR/NAFR	NAFR
CAV DATE	NA
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Transmission Date	NA

