

**IN THE HIGH COURT OF JUDICATURE AT PATNA**

**Civil Writ Jurisdiction Case No.7646 of 2014**

=====

1. Archana Gupta daughter of Arun Prasad resident of S.U. College Road, P.O. & P.S. Hilsa, District - Nalanda

.... .... Petitioner/s

Versus

1. The State of Bihar
2. The Principal Secretary, Rural Development Department, Bihar, Patna
3. The Deputy Secretary, Rural Development Department, Bihar, Patna
4. The Commissioner, MANREGA, Rural Development Department, Bihar, Patna
5. The Commissioner, Patna Division, Patna
6. The District Magistrate, Nalanda at Biharsharif
7. The Deputy Development Commissioner, Nalanda at Biharsharif
8. The Program officer, Block Hilsa, District - Nalanda

.... .... Respondent/s

=====

**Appearance :**

For the Petitioner/s : Mr. Arun Kumar

For the Respondent/s : Mr. SC10

=====

**CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA**

**ORAL JUDGMENT**

**Date: 25-08-2017**

Heard both sides.

The petitioner seeks quashing of the order, as contained in memo No. 3559 dated 09.12.2013, issued by the Deputy Development Commissioner, Nalanda (Annexure-10) by which the service of the petitioner has been terminated, cancelling her contract, from the post of Panchayat Rojgar Sevak and further to issue direction to reinstate the petitioner in service with all consequential benefits.

Sri Arun Kumar, the learned counsel for the petitioner, submits that the order was issued by the Deputy Development Commissioner (D.D.C.) in pursuance of the order of Collector but the Collector is competent to pass the order only after recommendation of the establishment committee and the matter was not placed before the establishment committee. It is further submitted that



from the order, as contained in Annexure-10, it would appear that the D.D.C. is simply signatory to the order and he issued the order in pursuance of the direction of the Collector. It is further submitted that petitioner has filed appeal before the Commissioner of the division as well as before the Commissioner, MANREGA, Rural Development Department, Government of Bihar, Patna and the same is still pending. It is submitted that the order of appointment was issued by the Deputy Secretary, Rural Development Department, Government of Bihar and, therefore, the Collector or the D.D.C. has no jurisdiction to terminate the service of the petitioner. The learned counsel for the petitioner placed reliance on an unreported judgement of this court passed in CWJC No. 14073 of 2014 by which the matter was remitted and the Principal Secretary was directed to pass order afresh in accordance with law, in terms of clause 5 of the agreement.

The State has filed counter affidavit as well as supplementary counter affidavit, in pursuance of the order dated 08.08.2017. The learned counsel for the State submits that the Principal Secretary, Rural Development Department, vide letter No. 8574 dated 22.09.2009 issued direction to the District Magistrate-cum-District Programme Coordinator and all the D.D.C.-cum-Additional Programme Coordinator with regard to removal of the services of the persons who were working on different posts under MANREGA. By the aforesaid letter the D.D.C.-cum- Additional District Programme Coordinator was authorized to cancel the contract/ appointment of other employees except Programme Officer after asking show cause from them. The learned counsel for the State submits that the D.D.C. asked show cause from the petitioner and after perusing his show cause cancelled the contract of the petitioner. If the petitioner is aggrieved he may file appeal before the Collector-cum- District Programme Coordinator.

Having considered the submission of both the parties and on



perusal of the records, I find that the D.D.C. is fully authorized by the Government of Bihar vide letter No. 8574 dated 22.09.2009 to pass order with regard to cancellation of appointment/ contract of Panchayat Rojgar Sevak after calling upon show cause from him and on perusal of show cause if the D.D.C. is satisfied he may cancel the appointment of Panchayat Rojgar Sevak made on contract. Therefore, I do not find any illegality in the impugned order of termination of the service petitioner (Annexure-10).

It appears that petitioner has filed appeal before the Commissioner of the division instead of the Collector on the ground that the Collector himself endorsed the order of the D.D.C., although the Collector is empowered to hear the appeal. Therefore, the petitioner is directed to file appeal before the Collector within 30 days from the date of this order and the Collector shall dispose of the appeal, in accordance with law, taking into consideration the ground taken by the petitioner in his appeal, within two months from the date of its filing on its own merit without non suiting the petitioner on ground of delay.

This writ petition is, accordingly, disposed of.

**(Prabhat Kumar Jha, J)**

BKS/-

|                   |            |
|-------------------|------------|
| AFR/NAFR          | NAFR       |
| CAV DATE          | N.A.       |
| Uploading Date    | 31.08.2017 |
| Transmission Date | N.A.       |

