IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.6496 of 2014

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Aziz Akhtar S/O Md. Naeem Resident Of Village - Kurmuri, P.O. Kurmuri, P.S. Sikrahatta, District – Bhojpur.

.... Petitioner.

Versus

1. The State Of Bihar through the Secretary, Department of Rural Development, Govt. Of Bihar, Patna.
2. The Deputy Secretary, Department of Rural Development, Govt. of Bihar, Patna.
3. The Deputy Development Commissioner, Bhojpur, Ara.
4. The District Magistrate, Bhojpur, Ara.
5. The Sub-Divisional Officer, Piro, Bhojpur.
6. The Assistant Engineer, District Rural Development Agency, Bhojpur, Ara.
7. The Programme Officer, MNEREGA, Jagdishpur, Bhojpur.
8. The Panchayat Technical Assistant, Panchayat-West Aayar, Block - Jagdishpur, Distt. – Bhojpur.

.... Respondents.

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Appearance :
For the Petitioner/s : Mr. Suresh Mishra, Adv.
For the Respondent/s : Mr. Kinkar Kumar, Adv.

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA

ORAL JUDGMENT

Date: 29-08-2017

Heard both sides.

The petitioner filed this writ application against the order dated 27.01.2014 as contained in memo no.103, issued by the Deputy Development Commissioner, Bhojpur, Ara, by which the appointment of the petitioner on contract basis, on the post of Panchayat Rojgar Sevak, has been cancelled and terminated.

Learned counsel for the petitioner submits that an F.I.R. bearing Tarari P.S.Case No.11/2013 was

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registered against the petitioner for committing irregularity in execution of the scheme and for defalcating huge amount, meant for completion of the scheme. Learned counsel for the petitioner submits that the petitioner has executed all the two schemes according to its parameters, but no show cause notice was issued to the petitioner. Admittedly, the petitioner was appointed on contract basis on the post of Panchayat Rojgar Sewek, but on mere institution of F.I.R. without asking any show cause, the petitioner has been terminated from service on an allegation of defalcation.

Learned counsel for the State, however, submits that the petitioner was appointed on contract basis and there is no requirement of asking any show cause before terminating the service of contract, but on consideration of submissions of both sides I am of the view that when the petitioner was removed on allegation at least petitioner should have been asked and called upon to explain the situation of cancellation of contract, on the basis of which he was appointed on the post of Panchayat Rojgar Sewek. This is the basic requirement of the public servant to act after observing the principles of natural justice in terminating the service of the petitioner. Therefore, I find that the order is not sustainable.

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Accordingly, the writ application is allowed and the order dated 27.01.2014 as contained in memo no.103 (Annexure-7) is set aside and the matter is remitted to the Deputy Development Commissioner, Bhojpur, Ara to pass a fresh order in accordance with law.

(Prabhat Kumar Jha, J)

Nitesh/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	04.09.2017
Transmission Date	NA

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