

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.5529 of 2016

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1. Zahir Karim Son of Sri Alam Karim resident of Mohalla - Near Tara Baba, Ward No. 11, P.S. and District - Gopalganj

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Water Resources Department, Government of Bihar, Patna
2. The Principal Secretary, Water Resources Department, Government of Bihar, Patna
3. Engineer - in - Chief (Central), Water Resources Department, Bihar, Patna
4. Superintending Engineer, Saran Canal Circle, Chapra
5. Chief Engineer, Water Resources Department, Siwan
6. Executive Engineer, Saran Canal Division, Maharajganj, Siwan
7. Deputy Director, Scientific Quality Control Division No. 4, Siwan
8. Assistant Engineer, Saran Canal Sub Division, Barharia, Siwan
9. The District Magistrate, Gopalganj
10. District Programme Officer, Primary Education and Sarve Shiksha Abhiyan, Gopalganj

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Janardan Prasad Singh, Sr. Adv.
Mr. Arbind Kumar Singh, Adv.
For the Respondent/s : Mr. Rakesh Prabhat, A.C. to S.C.21

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

ORAL JUDGMENT

Date: 18-03-2017

Heard Mr. Janardan Prasad Singh, learned Senior counsel for the petitioner and Mr. Rakesh Prabhat, A.C. to S.C.21 for the State.

A rather peculiar issue has come up for consideration. The petitioner has been terminated from his contract employment as a Junior Engineer, Water Resources Department on a mere allegation that he is also deriving pecuniary benefit in respect of his engagement as a Technical Supervisor under the Bihar Education Project.



Facts of the case lies in a very narrow compass. This petitioner has been in contract employment with the Water Resources Department, Government of Bihar and which has been renewed from time to time and the last of which is through the order dated 12.8.2014, a copy of which is present at Annexure-1 with the name of the petitioner appearing at Serial No. 28. A complaint was received in respect of one Mrigendra Bharadwaj at the instance of a political activist and which persuaded the Chief Engineer, Water Resources Department to seek information on the complaint vide his letter dated 8.12.2014 addressed to the District Education Officer, Sarva Shiksha Abhiyan present at Annexure-2 seeking information in respect of 3 persons. The name of the petitioner appears at Serial No.2 of the query. In response to the query the District Programme Officer, Primary Education and Sarva Shiksha Abhiyan vide his letter dated 17.1.2015 informed the Chief Engineer that the petitioner was giving technical support to the Vidyalaya Shiksha Samiti. It is also mentioned that for providing technical support, some technical supervisors are engaged on a payment of honorarium but there is no regular appointment nor any engagement order is issued.

It is proceeding on such report that a show cause notice was issued to the petitioner by the Chief Engineer on 22.4.2015 present at Annexure-5 which has been duly responded to by the petitioner vide



Annexure-6 in which he has denied any such engagement or having derived any pecuniary benefits therefrom. Petitioner has also enclosed the letter of the said political figure who has stated that he had not made any such complaint against any person. In between, the petitioner also obtained information under the Right to Information Act and the same very District Programme Officer has clarified the position that neither the petitioner nor the other person against whom complaint had been made, were engaged under the Bihar Education Project. A copy of the letter of the District Programme Officer is present at Annexure-7. Despite such position that by the office order bearing Memo No.1381 dated 4.6.2015 the contract of employment of the petitioner has been terminated.

I have heard learned counsel for the parties and I have perused the records.

While the short submission advanced by learned Senior counsel for the petitioner is that the order of termination despite being stigmatic rests on no foundation, the only document relied upon by Mr. Prabhat is the information of the District Programme Officer present at Annexure-3 and nothing beyond. In my opinion there cannot be a better example of mechanical discharge of executive function. Despite the fact that the allegation imputes the petitioner of deriving pecuniary benefits from his engagement under the Bihar



Education Project but except for the information earlier given by the District Programme Officer on 17.1.2015 present at Annexure-3 which stands reversed by the same officer vide his subsequent letter dated 29.5.2015 present at Annexure-7, there is nothing on the record of the proceeding to substantiate the charge. The denial by the petitioner could only be rebutted by the department by placing materials which could have been shown his engagement as a Technical Supervisor under the Project as well as of drawing pecuniary benefits but both are missing in the present case.

In other words, the allegation is without foundation and the order of termination perverse since resting on mere allegations which is without any foundation. The order bearing Memo No.1381 dated 04.06.2015 passed by the Chief Engineer, Water Resources Department, Siwan thus based on no evidence and lacking application of mind, cannot be upheld and is accordingly quashed and set aside.

The writ petition is allowed. The petitioner stands reinstated on his post.

(Jyoti Saran, J)

Bibhash/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	04.04.2017
Transmission Date	NA

