

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.18337 of 2016

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Kamlesh Kumar Chaudhary aged about 23 years, S/O Bishun Chand Chaudhary,
Resident of Village- Narbatpur, P.O.- Chausa, P.S.- Buxer (MO), District- Buxer.

.... Petitioner

Versus

1. The State of Bihar through the Chief Secretary Home Department, Government of Bihar, Patna.
2. The Director General of Police-cum- I.G. of Police, Bihar, Patna.
3. The D.I.G. of Police, Bhojpur, Ara Zone, Ara.
4. The S.P. of Bhojpur, Ara.

.... Respondents

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Appearance :

For the Petitioner : Mr. Ranjit Jha, Advocate
For the State : Mr. Dr. Anand Kumar, AC to AAG-3

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

ORAL JUDGMENT

Date: 03-01-2018

Heard Mr. Ranjit Jha, learned counsel appearing for the petitioner and Dr. Anand Kumar, learned AC to AAG-3 for the State.

The petitioner is aggrieved by the order bearing Zilladesh No.2031/2015 dated 10.10.2015 issued under the signature of the Superintendent of Police, Bhojpur at Ara whereby the petitioner has been dismissed from service. A copy of the order is impugned at Annexure-9 to the writ petition.

The short argument advanced by Mr. Jha, learned counsel for the petitioner stands noted in the order of this Court passed on 15.11.2017 and is that the termination order is passed without holding



any proceeding.

It is noting such submission that learned counsel for the State was directed to seek instruction and file counter affidavit and which has since been filed today where the position is admitted and it is simply on an allegation that the petitioner adopted unfair means for appointment as Constable which led to institution an F.I.R. arising from Ara Nawada P.S. Case No.379 of 2015 and is pending consideration after submission of charge sheet before the competent criminal court below that the petitioner has been dismissed from service. Undisputedly, the termination is without holding any proceeding into the alleged charge. It would not require to this Court to enter into exhaustive detailed discussion to hold that the order of termination passed simply on institution of F.I.R. and without holding any proceedings as mandated under the Bihar Government Servant (Classification, Control and Appeal) Rules, 2005 and the provisions present in the Bihar Police Manual, is without sanction of law.

For the reasons aforementioned the order of termination bearing Memo No.4723 dated 10.10.2015 of the Superintendent of Police, Bhojpur at Ara, impugned at Annexure-9 cannot be upheld and is accordingly quashed and set aside. The petitioner stands reinstated with full back wages. This order however would not preclude the competent authority to proceed against the petitioner



afresh but in accordance with law.

The writ petition is allowed.

(Jyoti Saran, J)

N.H./-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	09-01-2018
Transmission Date	

