

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1902 of 2019

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Mani Bhushan Kumar S/o Ram Dayal Singh, resident of Vill.-Ward No. 1,
Bhalui, P.s.-Rajapakar, Distt.-Vaishali (Hajipur)

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Rural Development Department of Health, Bihar, Patna
2. The Secretary, Rural Development Department of Health, Bihar, Patna
3. The District Magistrate Vaishali
4. The Deputy Development Commissioner, Vaishali
5. The Sub Divisional Officer Mahanar, Vaishali
6. The Block Development Officer, Mahanar, Vaishali

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Vasant Vikas, Adv
For the Respondent/s : Mr. Harish Kumar (GP-8)

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CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
ORAL JUDGMENT

Date : 05-02-2019

The petitioner seeks setting aside of the order dated 06.11.2018 contained in Memo No. 1885 passed by the Deputy Development Commissioner, Vaishali whereby the contractual appointment of the petitioner on the post of Assistant in Gramin Awas has been terminated.

2. The aforesaid order is being assailed on the ground that the Deputy Development Commissioner is only authorized to recommend for the termination of the contract of the petitioner whereas the order in that regard could be passed by the Collector only.



3. The Circular dated 21.10.2014 issued under the signature of the Secretary to the Government clearly indicates that for the purposes of terminating the contract of such employee, necessary recommendation has to be made by the Deputy Development Commissioner and on such recommendation, the District Magistrate has been authorized to pass an order. Any order which aggrieves an employee whose service has been terminated, can appeal before the Departmental Secretary within a period of three months of the passing of the order of termination of the contract.

4. The learned counsel for the petitioner has submitted that despite the petitioner having served show cause reply, the Deputy Development Commissioner, on non-existent and wrong facts, has terminated the contract of service of the petitioner which he was not authorized to do so.

5. However, this Court feels that the aforesaid issue viz. the competence of the Deputy Development Commissioner in absence of an order of termination of contract and various other issues of facts which have been



raised in this petition, can be agitated and disposed off by the Departmental Secretary, if an appeal is preferred before him.

6. The petitioner is, therefore directed to prefer an appeal before the Departmental Secretary within a period of two weeks from today. It is however made clear that if the time of three months for preferring the appeal has expired, the petitioner would be given an opportunity for preferring the appeal. On receipt of such appeal, the Departmental Secretary shall dispose it off by a reasoned order within a period of six weeks thereafter.

7. With the aforesaid direction, the writ petition is disposed off.

(Ashutosh Kumar, J)

Shageer/-

AFR/NAFR	NAFR
CAV DATE	NA
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Transmission Date	NA

