

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11472 of 2016

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Hitendra Kumar Yadav son of Shri Kashi Nath Yadav, Resident of village-
Suhavan Hata, P.O.- Mohammadpur P.S- Badharia, District- Siwan

... .. Petitioner

Versus

1. The State Of Bihar
2. The Engineer in Chief, Water Resource Department, Bihar, Patna
3. The Chief Engineer, Water Resource Department, Siwan
4. The Executive Engineer, Water Resource Department, Bhore, Gopalganj
5. The District Magistrate, Gopalganj.
6. The District Program Officer, Primary Education and Sarv Sikcha Abhiyan, Gopalganj.

... .. Respondents

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Appearance :

For the Petitioner : Mr.Ranjeet Kumar, Advocate
For the Respondents : Mr.Satyadeo Kumar- SC5

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CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL JUDGMENT

Date : 27-02-2019

Learned counsel for the petitioner is permitted to correct the description of respondent no.2, 3 and 4 in the cause title of the writ petition.

Heard learned counsel for the petitioner as well as learned counsel for the State.

The petitioner has challenged the office order dated 04.06.2015 issued by the Chief Engineer, Water Resources Department whereby and whereunder his contractual services as Junior Engineer has been terminated and some recovery has also been directed.



The said order is based on letter dated 17.01.2015 issued under the right to Information Act by the District Programme Officer, Primary Education and Sarv Sikcha Abhiyan, Gopalganj (respondent no.6), whereby it is informed that the petitioner was simultaneously working under the Bihar Education Project as Technical Supervisor and drawing pecuniary benefits in the said project. Thus, the authorities have issued the order terminating the petitioner's contractual appointment after issuing show cause notice.

The admitted position which emerges from Annexure P 12 (supplementary affidavit of the petitioner) of the writ petition, i.e, the information dated 29.05.2015, is that the District Programme Officer, Primary Education and Sarv Sikcha Abhiyan, Gopalganj has later reversed his stand regarding the petitioner being deriving simultaneous pecuniary benefits and working under the Bihar Education Project as communicated earlier in the letter dated 17.01.2015.

Under the identical circumstances, this Court while considering the case of said Zahir Khan in C.W.J.C. No. 5529 of 2016 has held that in view of such denial of the District Programme Officer, Primary Education and Sarv Sikcha Abhiyan, Gopalganj (respondent no.6) regarding the petitioner working in



the said project on contractual appointment in the Water Resources Department, allegations is without any foundation and the order of termination perverse.

Similar is the circumstances in the instant case. Here also the District Programme Officer has denied and informed the authorities that the petitioner of this case is not deriving any pecuniary benefits and had not worked in the Bihar Education Project.

In view of the aforesaid communication which is Annexure P 12 dated 29.05.2015 there is nothing on record before the authorities to substantiate the charge.

In view of the aforesaid admitted position, this case is clearly covered by the case of said Zahir Khan which has been allowed by order dated 18.03.2017 passed in C.W.J.C. No. 5529 of 2016.

Having considered the aforesaid position, the writ petition is allowed. The order bearing memo no. 1382 dated 04.06.2015 passed by the Chief Engineer, Water Resources Department, Siwan being based on no evidence and lacking application of mind, is hereby quashed and set aside.



The petitioner, as a result of quashing of the said order in the instant writ petition shall be reinstated on the post and would be entitled to all consequential benefits.

(Madhuresh Prasad, J)

Shashi

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	28.02.2019
Transmission Date	NA

