

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.5677 of 2019

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Manilal Mahto, aged about 49 years, Son of Sri Mishrilal Mahto, Resident of
Village Vishunpura, Post Bhagwanpur, P.S. Parsa, District- Saran.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Rural Development
Department, Government of Bihar, Patna.
2. The Principal Secretary, Public Health and Engineering Department,
Government of Bihar, Patna.
3. The Secretary, Bihar State Water and Sanitation Mission, Vishve-
Shwaraiyya Bhawan Complex, Bailey Road, Patna.
4. The Director, P.M.U., Bihar State Water and Sanitation Mission, Patna.
5. The District Magistrate Cum Chairman, District Water and Sanitation
Committee, Saran, Chapra.
6. The D.D.C cum Vice Chairman, District Water and Sanitation Committee,
Saran, Chapra.
7. The Executive Engineer Cum Member Secretary, District Water and
Sanitation Committee, Saran, Chapra.
8. The District Co-ordinator, Bihar State Water and Sanitation Committee,
Mission, Saran, Chapra.
9. The Block Development Officer, Taraiya, Saran.
10. The Block Development Officer, Panapur, Saran.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Rajendra Kumar Jain, Adv.

For the Respondent/s : Mr. S.Raza Ahmad (AAG-5)

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CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR

ORAL JUDGMENT

Date : 11-04-2019



The petitioner was appointed on contractual basis for three years, which term was dependent on yearly appraisal, for participating in the "mission of cleanness".

2. By order dated 23.03.2017, passed by the D.D.C.-Cum-Vice Chairman, District Water and Sanitation Committee, Saran at Chapra (respondent No. 6) (*in short the D.D.C.*), the service of the petitioner has been terminated prior to the tenure for his not having shown desired interest in effective implementation of the policy of cleanliness.

3. The order impugned in the present petition suggests that the petitioner could not manage to get even one village Open Defecation Free (O.D.F.). On the appraisal of the performance of the petitioner, the aforesaid order was passed.

4. The learned counsel for the petitioner has submitted that the petitioner ought to have been noticed about his poor performance and his response ought to have been considered before passing the order; notwithstanding the fact that his appointment was only contractual. It is, as



has been argued by the learned counsel for the petitioner, well settled by now that even in contractual appointment, principle of natural justice has to be followed when an action is taken for terminating the contract. The petitioner must know the reasons and must offer his explanations for the termination of his contract prior to the end of the tenure.

5. What can be gathered from the writ petition is that the petitioner worked for two years and only in the third year of his contractual appointment, such an order was passed. Had the petitioner continued in service, there was some expectation of further renewal of contract as the "mission of cleanness" is still on going. In that view of the matter, it was incumbent upon the D.D.C. to have asked an explanation from the petitioner.

6. As opposed to the aforesaid contention, the learned counsel for the State submits that from the order impugned itself, it will appear that notice was sent to the petitioner to which he refused to reply. In the absence of any reply of the petitioner, there was no other way out for the D.D.C., but to terminate the employment of the



petitioner, which was only after the appraisal of the performance given by him.

7. The fact of the petitioner having been noticed for giving an explanation has been denied by the learned counsel for the petitioner.

8. There is nothing on record to indicate that the petitioner received any such information from the D.D.C. for answering to the charge levelled against him.

9. Under the aforesaid circumstances, especially finding that practically one year was left for completion of the tenure, this Court deems it appropriate to direct the petitioner to make a representation before the D.D.C.-Cum-Vice Chairman, District Water and Sanitation Committee, Saran at Chapra (respondent No. 6) to reconsider the case of the petitioner after hearing him and considering the explanation which the petitioner shall offer.

10. Should such a representation be filed by the petitioner within a period of four weeks from today, the concerned respondent No. 6 shall look into the matter and pass necessary order/s in accordance with law, without being



influenced in any manner by the fact that this writ petition has been allowed to the extent of permitting the petitioner to make a representation, within a further period of six weeks thereafter. The order impugned shall be revisited by the concerned respondent No. 6 only in the event of finding the allegation raised by the petitioner about no notice to him to be correct.

11. With the aforesaid observation/direction, the writ petition stands disposed off.

(Ashutosh Kumar, J)

Praveen-II/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	16.04.2019
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