

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No 12641 of 2014

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Sri Chandrajeet Kumar, Son of Late Harihar Roy, resident of village + P.O.-
Kishanpur, P.S.- Warisnagar, Distt- Samastipur.

... .. Petitioner/s

Versus

1. The State Of Bihar through the Principal Secretary, Health Department,
Government of Bihar, Patna
2. The Executive Director, State Health Society, Pariwar Kalian Bhawan,
Shekhpura, Patna-14
3. The District Development Commissioner, Gaya.
4. The District Magistrate cum President, District Health Society, Gaya.
5. The Civil Surgeon cum Member Secretary, District Health Society, Gaya.
6. The District Programme Manager, District Health Society, Gaya.

... .. Respondent/s

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Appearance :

For the Petitioner/s : M/s Lakmesh Marvind, Rajesh Kr Singh,
Lakmesh Kr, Advocates

For the Respondent/s : Mr Harish Kumar, GP VIII

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CORAM: HONOURABLE MR JUSTICE MADHURESH PRASAD

ORAL JUDGMENT

Date : 29-04-2019

Heard learned counsel for the petitioner and the
respondent-State.

2 Petitioner was appointed as Block Community
Mobilizer (for brevity, *BCM*) on a contractual basis. The period of
contract was 04.09.2010 to 03.09.2013. While discharging his
function, allegations were levelled against him by Asha
Facilitators. On the basis of such allegations, the petitioner was
directed to file a show cause. A very detailed and elaborate show



cause has been filed by the petitioner dealing with all the points. The same is Annexure 5 to the writ petition. Without considering the point wise response of the petitioner, Collector, Gaya, under order dated 29.05.2013, has issued an order terminating the petitioner's contractual engagement in purported exercise of power under Clause 10f of the contract of engagement.

3 Learned counsel for the petitioner submits that bona fide exercise of power in view of the provisions contained in Clause 10f of the contract, simplicitor would not have left the petitioner with any remedy in the instant proceedings. However, termination of the petitioner is on basis of allegations.

4 He has drawn attention of the Court towards the order passed by the Collector, Gaya and submitted that since the order suffers from non-consideration of various pleas taken by the petitioner in response to the seven issues on which show cause was issued by the District Magistrate on 03.05.2013, the order is unsustainable in law. He submits that, apart from terminating the petitioner's contractual engagement, the order of the Collector dated 29.05.2013 also casts a stigma on the petitioner. Therefor, the same, being violative of principles of natural justice, to that extent, is unsustainable. He places reliance on decision of this



Court in the case of *Praveen Kumar -Versus- State of Bihar & Others* reported in 2012 (2) PLJR 62.

5 It is axiomatic that such stigmatic order cannot be passed unless there is compliance of principles of natural justice. Non-consideration of the issues raised by the petitioner is violation of principles of natural justice. It cannot be justified, merely for the fact that the petitioner was a contractual appointee under the contract. The Collector would have been right if he had resorted to the exercise of power under Clause 10f of the agreement on account of an assessment of his services being unsatisfactory or not in the interest of the Society. However, since the same is based on certain allegations then the findings are unsustainable on account of the same being without any consideration and without assigning any reason in support for rejection of the various plea raised by the petitioner in his elaborate and detailed response to the show cause, i e, Annexure 5 of the writ petition dated 03.05.2013.

6 For the reasons indicated hereinabove, this Court would observe that no stigma can be attached to the petitioner on account of his disengagement under the order of the District Magistrate, Gaya dated 29.05.2013. If the scheme is being continued then the petitioner, without being made to suffer any



disqualification on account of the order of the Collector 29.05.2013 and the appellate order dated 28.03.2014, would be entitled to consideration of his case for renewal of the agreement maintaining parity with others.

7 Writ petition is allowed to the extent indicated herein above.

(Madhuresh Prasad, J)

M.E.H./-

AFR/NAFR	AFR
CAV DATE	NA
Uploading Date	02.05.2019
Transmission Date	NA

