

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14199 of 2014

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1. Kiran Kumari and Anr D/O- Ram Sagar Ram, R/O Village- Pourana, P.S.- Hayaghat, Dist.- Darbhanga at present working as a Sweeper Primary Health Centre Hayaghat
 2. Smt. Indu Devi, D/O- Ram Sagar Ram, R/O Village- Pourana, P.S.- Hayaghat, Dist.- Darbhanga at present working as a Sweeper Primary Health Centre Majaulia

... .. Petitioners

Versus

1. The State Of Bihar through itsw Commissioner cum Secretary, Health Department, New Secretariat Patna
2. The Civil Surgeon-cum-Chief Medical Officer, Laheriasarai, Darbhanga
3. The In-charge Medical Officer, Primary Health Centre Hayaghat, Darbhanga
4. The In-charge Additional Primary Health Centre Majaulia, Darbhanga
5. Regional Deputy Director, Health, Darbhanga Division, Darbhanga
6. Secretary, Rogi Kalyan Samiti of the block Hayaghat
7. Block Pramukh, Rogi Kalyan Samiti of the block Hayaghat

... .. Respondents

Appearance :

For the Petitioner/s	:	Mr. Ram Shankarm Singh Mr. Jagdish Pd. Singh
For the Respondent/s	:	Mr. Manoj Kumar, AC to GP 24

CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

3 13-08-2019 Heard learned Counsel for the petitioners and the learned Counsel for the respondent State.

The petitioners have filed this writ petition for setting aside/quashing of the communication dated 5.6.2012 whereby the respondents have stopped taking work from the petitioners as Sweeper.

Counsel for the petitioners submits that the action has been taken without affording any opportunity to the petitioners.



The order visiting the petitioners with civil consequences is without complying with the principles of natural justice and therefore the order is not sustainable. Reliance is placed on the decision of the division bench of this Court in the case of State of Bihar & ors. Vs. Anil Kumar Singh reported in 2016(4) PLJR 41.

Counsel for the respondents, on the other hand, points out that nature of engagement of the petitioners was having no element of public employment. Civil Surgeon -cum- Chief Medical Officer had directed the Incharge Medical Officer, Primary Health Center, Hayaghat to engage the petitioners on contractual basis.

No contract has come into existence as per pleadings on record. Petitioners, however, have discharged their duties for about one year, and thereafter have been disengaged. The reliance placed on division bench judgment in the instant proceeding appears to be misplaced. Specific fact before the division bench was that the petitioner had been appointed against a permanent post and in that context the protection which is extended to government servant in public employment was extended to the petitioner. Nature of engagement of the petitioners does not entitle them to similar protection as is



extended to public servant/government employees.

This Court however would observe that the orders whereby the respondents have decided not to take any further work from the petitioners, in so far as it attaches any stigma, would not be relied upon and made the basis of consideration for their engagement on contractual basis in future as such findings are not after affording opportunity of hearing to the petitioners. Petitioners in the facts and circumstances cannot seek any direction for reinstatement.

The writ petition is disposed of with the aforesaid observations.

(Madhuresh Prasad, J)

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