

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No 7197 of 2015

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Md Sarwar Zaman, S/o Md Masiduzzaman Resident of Bhikanpur Gumti No 3, Gopal Toli, Police Station Ishakchak, District Bhagalpur.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. The Director-in-Chief, Department of Health, Government of Bihar, Patna.
3. The Civil Surgeon-cum-Chief Medical Officer, Bhagalpur.
4. The Superintendent, Jawahar Lal Nehru Medical College and Hospital, Bhagalpur.
5. The Incharge Medical Officer, Blood Bank, Jawahar Lal Nehru Medical College and Hospital, Bhagalpur.
6. The Incharge Medical Officer, Sub Divisional Hospital, Naugachia, District Bhagalpur.

... .. Respondent/s

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Appearance :

For the Petitioner/s : M/s Siya Ram Sahi, Md Najmul Hodda, Advocates
For the Respondent/s : Ms Prachi Pallavi, Advocate

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CORAM: HONOURABLE MR JUSTICE MADHURESH PRASAD

ORAL JUDGMENT

Date : 30-04-2019

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

2 Petitioner was engaged on contractual basis as a Lab Technician under the office of the Civil Surgeon-cum-Chief Medical Officer, Bhagalpur for the year, 2010 -2011. Petitioner's contractual engagement was continued on an yearly basis thereafter till issuance of the order dated 19.01.215 by the Civil Surgeon-cum-Chief Medical Officer, Bhagalpur whereby his



contractual engagement has been terminated. The order is on the basis of certain allegations made against the petitioner by one female complainant alleging that he has indulged in some immoral conduct while she was donating blood. The final and conclusive order which is stigmatic and also terminates the contractual appointment of the petitioner is without issuing even a show cause or affording any opportunity to the petitioner.

3 Learned counsel for the State submits that the nature of employment was contractual. Petitioner, at best, had contractual relationship and that in the circumstances, no direction should be issued by this Court in respect of reinstatement of the petitioner since the initial period of contract lapsed long back in the year, 2011.

4 This Court, however, would agree with State Counsel that petitioner has only contractual rights arising out of his engagement in the year, 2010.

5 This Court, however, must take judicial notice of the fact that the order dated 19.01.2015 has been passed without affording any opportunity of hearing and in violation of the principles of natural justice. The same, being stigmatic, is, thus, unsustainable in the eyes of law. The admitted position is that no



show cause was issued prior to recording the findings on the basis of complaint made by the said female.

6 Having regard to the facts and circumstances of the case, since the findings casting stigma on the petitioner have been arrived at without following the principles of natural justice, this Court would observe that the order dated 19.01.2015 shall not be treated as disqualification or imposing any stigma on the petitioner in consideration of his claim for employment on contractual basis in future, even in the same office, if the requirement still exists.

7 Writ petition is disposed of with the aforesaid observations.

(Madhuresh Prasad, J)

M.E.H./-

AFR/NAFR	NAFR
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