

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.13476 of 2019

Pratap Kumar, male, aged about 32 years, Son of Awadh Kishore Mandal,
resident of Kashmir Jamui, P.S.- Khaira, District- Jamui.

... .. Petitioner/s

Versus

1. The State of Bihar through the Secretary, Planning and Development Department, Bihar, Patna.
2. The Additional Secretary, Planning and Development Department, Bihar, Patna.
3. The District Election Officer-cum-District Magistrate, Lakhisarai.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. P.K. Shahi, Sr. Adv.
Mr. Mukesh Kumar, Adv.
For the Respondent/s : Mr. Vikash Kumar (SC-11)

CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR

ORAL JUDGMENT

Date : 08-07-2019

The petitioner, who hitherto had been working on contract as Junior Engineer, Local Area Engineering Organization, Works Division, Lakhisarai, is aggrieved by the order dated 06.05.2019, contained in Memo No. 2041, passed by the Additional Secretary, Planning & Development Department, Govt. of Bihar, Patna, with the approval of the



Secretary of the Department, whereby his contract has been terminated without adverting to the explanations offered by him with respect to the charges raised against him.

2. It appears from the record that the petitioner was issued show-cause notice *vide* letter dated 02.05.2019 by the District Election Officer-Cum-District Magistrate, Lakhisarai, asking him to explain as to why no action was taken by him at the time of polling when attempt was made to vote unauthorizedly at a particular booth. The petitioner was asked to explain his cause by 03.05.2019 before 10 O'clock in the morning. The petitioner was not afforded with any evidence or document for the District Magistrate, Lakhisarai to have to come to the conclusion that there was bogus voting on a particular booth of which the petitioner was made in-charge provisionally.

3. Pursuant to the aforesaid show-cause notice, the petitioner gave a hurried representation intimating to the District Magistrate, Lakhisarai that he was only sector and zonal in-charge was not placed at any particular booth. It was also submitted by him in his reply dated 03.05.2019



that there is no report of the polling officer at the booth regarding any bogus voting.

4. However, the explanation offered by the petitioner was not at all considered and in a tearing haste, the order has been passed on 06.05.2019 by the Additional Secretary, Planning & Development Department, Govt. of Bihar, Patna, with the approval of the Secretary of the Department, terminating the contract of the petitioner.

5. Mr. P.K. Shahi, the learned Senior Advocate for the petitioner has submitted that the petitioner has been in the Employment of the Department, though on contractual basis, from 29.03.2012. Terminating the contract on a ground, which is not correct, is stigmatic and would come in the way of the petitioner applying for another contractual assignment with the Government. He has further submitted that an unreasonably short time was given to the petitioner to explain the cause and that also without there being any evidence with respect to the charge levelled against him. Factually speaking, it has been urged, the allegation raised against the petitioner is incorrect. Without referring to the



explanation offered by the petitioner, especially that he was not in-charge of that particular booth where bogus voting had taken place during the Lok Sabha elections and that he was only sector and zonal in-charge and in the absence of any report by the polling officer at that particular booth regarding any malpractice at the time of election, it was highly unreasonable for the authorities to have terminated the contract of the petitioner.

6. The representation made by the petitioner before the Secretary, Planning & Development Department, Govt. of Bihar, Patna, dated 29.05.2019, has not yet been disposed off.

7. Under the aforesaid circumstances, this Court directs the petitioner to make a fresh representation before the Secretary, Planning & Development Department, Govt. of Bihar, Patna, detailing and intimating all such grounds which have been raised in the present petition, within a period of four weeks from today, who, on receipt of the same, shall, after referring to all such grounds, pass a reasoned order in accordance with law.



8. In case the explanation of the petitioner is found to be worthy of credence, the order impugned in the present petition, terminating the contract of the petitioner, may be considered to be recalled/revised. The order by the concerned respondent shall be passed definitely within a period of six weeks of the date of receipt/production of a copy of this order.

9. With the aforesaid direction, the writ petition stands disposed off.

(Ashutosh Kumar, J)

Praveen-II/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	10.07.2019
Transmission Date	N/A

