

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14065 of 2019

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Revati Raman Prasad S/o Ram Bhajan Yadav, Resident of Mohalla Salhesh
Asthan, New Abhnda, Sri Krishna Nagar, Laherisarai, Darbhanga.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Health and Family Welfare, Govt. of Bihar, Patna
2. The Regional Director, Health Services, Darbhanga Division, Darbhanga.
3. The Commissioner, Darbhanga Division, Darbhanga
4. The District Magistrate cum Chairman, District Health Society, Darbhanga
5. The Civil Surgeon cum Secretary, District Health Society, Darbhanga
6. The In-Charge, Deputy Superintendent, Sub-Divisional Hospital, Benipur Darbhanga
7. The In-Charge Medical Officer, Primary Health Centre, Baheri, Darbhanga.
8. The In-Charge Medical Officer, PHC Bahadurpur, Darbhanga

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Satyavrat Verma, Advocate
For the Respondent/s : Mr. Shailendra Kumar, AC to PAAG-2

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CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
ORAL JUDGMENT

Date : 16-07-2019

The petitioner has challenged the order dated 28.06.2019 contained in Memo No. 1142/DHS/19 issued under the signature of District Magistrate-cum-Chairman, District Health Society, Darbhanga whereby his contractual appointment as Block Health Manager has been done away with and the contract has been terminated on the grounds of financial irregularities.



2. Mr. Satyavrat Verma, learned advocate for the petitioner, while challenging the aforesaid order has drawn the attention of this Court firstly to the charge which was levelled against him to demonstrate that even in such charge, there is no allegation of any financial embezzlement and the petitioner along with another viz. Shiv Bhola Shankar, who at the relevant time was working as Block Accountant in the Primary Health Centre, Baheri has been found to be guilty of not carrying out their work in time and with diligence. There were some irregularities and mismatch between the bank account, account maintenance register and the bank resolutions statement on a monthly basis.

3. The petitioner along with Shiv Bhola Shankar were, therefore, directed to explain their cause within forty eight hours of such notice issued to them on 22.06.2019.

4. Pursuant to the aforesaid notice, Mr. Verma, learned advocate points out, the explanation was



furnished by the petitioner stating that the allegation of mismatch was absolutely incorrect and that the bank resolutions statement was self explanatory. There was no financial embezzlement and for reasons which were beyond the control of the petitioner, there was only some delay in updating the accounts register.

5. It has then been pointed out by Mr. Verma, learned advocate for the petitioner that the order impugned, whereby the contract of service of the petitioner has been terminated, does not take into account the explanation offered by the petitioner and his case has been dealt along with the case of Shiv Bhola Shankar, who was the Block Accountant in the aforesaid Primary Health Centre and whose job mandate obligated upon him to maintain such account register.

6. It has been submitted on behalf of the petitioner that there has been a total non-application of mind in as much as the District Magistrate-cum-Chairman, District Health Society has not taken care to



find out the job mandate of a Block Health Manager.

7. The petitioner is not at all concerned, it has been argued, with the maintenance of the records and he has only been entrusted with the responsibility of propagating the State policy of upgrading health and maintenance of health of the citizen.

8. In any view of the matter, before such an order viz. termination of contract on grounds of not performing the job in a proper manner, is passed, such factors ought to have been adverted to. That not having been done, the order is rendered unreasonable.

9. There is another aspect of the matter also which has been pointed out by the learned advocate for the petitioner. The enquiry was conducted on the basis of some observation made by the Hon'ble *Lokayukta* in a different case in which the petitioner was not a party.

10. It has been submitted that an enquiry into the conduct of any person has a serious consequence which many a times could bring adverse result and



therefore it was necessary to hear the petitioner in the aforesaid proceeding before *Lokayukta* before any such direction on enquiry could have been passed/ordered.

11. Apart from this, it has been submitted that the order reflects a closed state of mind because of the direction given by the *Lokayukta* of conducting an enquiry in the matter.

12. An order can be sustained only if it is informed with logic and facts. In the absence of the authority being in know of the mandate of the job profile of the petitioner, attaching such stigma on him and thereafter terminating his contract midway cannot be sustained in the eyes of law.

13. The aforesaid contentions raised on behalf of the petitioner are quite tenable.

14. For the aforementioned reasons, the order dated 28.06.2019 is set aside.

15. The matter is remitted to the District Magistrate-cum-Chairman, District Health Society,



Darbhanga (respondent No. 4) to write out a fresh order in accordance with law. It would be in the interest of justice that a fresh opportunity be given to the petitioner to explain his cause. The order shall be passed within a period of six weeks of the receipt/production of a copy of this order.

16. The petition stands allowed to the extent indicated above.

(Ashutosh Kumar, J)

Shageer/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	19/07/2019

