

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.901 of 2017

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Ganesh Kumar son of Jagdeo Ram Resident of Village - Bishunpur Patti, P.O.
- Bishunpur Patti, Block - Sahebganj, District - Muzaffarpur.

... .. Petitioner/s

Versus

1. The State Of Bihar and Ors
2. The Collector-cum-District Magistrate, Muzaffarpur.
3. The Deputy Development Commissioner, Muzaffarpur.
4. The District Welfare Officer-cum-District Project Officer, Muzaffarpur.
5. The Sub-Divisional Magistrate, Muzaffarpur West.
6. The Sub-Divisional Welfare Officer, Muzaffarpur.
7. The Block Development Officer, Sahebganj, Muzaffarpur.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Dharmendra Jha
For the Respondent/s : Mr.K.K. Jha- AAG-8

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL ORDER

4 14-11-2019 Heard learned counsel for the parties.

2. This writ application has been filed on 20.01.2017, challenging an order dated 16.02.2013 passed by the Sub-Divisional Magistrate, West, Muzaffarpur, whereby the engagement of the petitioner as *Vikas Mitra* has been cancelled, after taking into account the fact that the petitioner had refused to submit his explanation in respect of the charges made against him. Though the said order dated 16.02.2013 has not been brought on record, the reference of the order finds placed in an action taken report (ATR) on a complaint made by the



petitioner to the Chief Minister of the State. It is evident from the said ATR that the complaint was filed by the petitioner raising his grievance against cancellation of his engagement and engagement of another person as *Vikash Mitra* in his place. In the ATR, it has been mentioned that after having received serious allegations against the petitioner, he was asked to explain his conduct. Despite the fact that the petitioner received the notice seeking his explanation, he did not respond, whereafter a decision was taken to cancel his engagement and a direction was made to engage the person at serial No.2 of the merit list, as *Vikas Mitra*.

3. It is the case of the petitioner in the writ application that the petitioner did not have any knowledge about the notice, seeking his explanation leading to passing of the order dated 16.02.2013. He has taken a plea that despite the fact that he had approached the Block Development Officer, Sahebganj for obtaining the letter dated 24.11.2012, whereby petitioner's explanation was sought, the same was not supplied to him. It has been mentioned in the writ petition that subsequently the Sub-Divisional Officer, West Muzaffarpur had also issued a letter No.32 dated 17.12.2012 to the petitioner, asking his explanation with reference to the letter dated



24.11.2012 but at no point of time, the said letter dated 24.11.2012 was served on him. It is his further case that he invoked Right to Information Act in May, 2013 for the purpose of submitting his explanation. In response to the petitioner's application, seeking information under the Right to Information Act by a communication dated 28.05.2013, the petitioner was informed that his engagement was cancelled. It is evident, thus, that the petitioner was in know of the fact that he was no more a *Vikash Mitra* after cancellation of his engagement.

4. The only ground, which the petitioner has taken in the present writ application is that since the notice dated 24.11.2012, seeking explanation was not served on him, cancellation of his engagement is bad being in violation of the principles of natural justice.

5. From the pleadings in the writ petition, however, I do not find any explanation for the delay of nearly four years in approaching this Court against the impugned action.

6. Learned counsel appearing on behalf of the petitioner has conceded that the petitioner did not discharge any duty after 16.02.2013, which is indicative of the fact that the petitioner was in know of cancellation of his engagement.

7. On perusal of the counter affidavit, it can be



noticed that there were allegations against the petitioner of having indulged in nefarious activities including receiving of illegal gratification in the matter of payment of money under Old Age Pension Scheme and other beneficial Schemes of the State Government. The plea of the petitioner that he was not aware of a notice dated 24.11.2012 is not acceptable to this Court, particularly, when the petitioner has approached this Court in 2017, knowing well that his engagement stood cancelled in 2013 itself.

8. I do not find it to be a fit case for exercise of writ jurisdiction under Article 226 of the Constitution of India, in the facts and circumstances noted above.

9. This application is, accordingly, dismissed.

(Chakradhari Sharan Singh, J)

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