

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2652 of 2020

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Raj Kishore son of Jay Krishna Singh resident of Village Momindpur, Police Station Fathua, District Patna.

... .. Petitioner

Versus

1. The State of Bihar through the Additional Chief Secretary, Department of Panchayati Raj, Government of Bihar, Patna.
2. The Additional Chief Secretary, Department of Panchayati Raj, Government of Bihar, Patna.
3. The District Magistrate, Patna.
4. The Additional Collector, Patna.
5. The District Panchayati Raj Officer, Patna.
6. The Block Development Officer, Fathua, Patna.
7. The Sarpanch, Gram Panchayat Momindpur, Fathua, District Patna.

... .. Respondents

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Appearance :

For the Petitioner/s	:	Mr.Sanjay Kumar
For the Respondent/s	:	Ms.Archana Meenakshee (Gp6)
		Mr. Karandeep Kumar, AC to GP 6

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CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

2 26-02-2020 Heard learned Counsel for the petitioner and the learned Counsel for the respondent State.

In the year 2008 the petitioner was selected as Gram Kutchery Sachiv for Momindpur in Fathua. The petitioner's contractual existence has been brought to an end by an order issued by the District Panchayat Raj Officer, Patna. The order is based on the fact that from 2011 to 2016 the petitioner was employed elsewhere in a private organisation and during the said period the Sarpanch was illegally taking work from her relative in place of the petitioner, and making payment of the amount due to the petitioner in favour of her relative. The District Panchayat Raj Officer has therefore directed for initiating recovery proceeding against the Sarpanch and collateral termination of the petitioner's contractual



existence as Gram Kutchery Sachiv.

Referring to the regulation of 2014 namely Bihar Gram Kutchery Sachiv (Niyojan, Sewasart awam Kartavya) Niyamawali, 2014 dated 5.1.2015 petitioner's counsel submits that the same provides procedure for removal of Gram Kutchery Sachiv. In Regulation 12 thereof, the competent authority for petitioner's removal was the Sarpanch. The District Panchayat Raj Officer was in fact the appellate authority. The manner in which the order has been passed directly by the District Panchayat Raj Officer is impermissible under the scheme of the Regulation. Other than that, it is submitted that such action of the District Panchayat Raj Officer is bad and also deprives the petitioner of his right to appeal.

The aforesaid submissions based on procedure prescribed in the Regulation have to be viewed in the background of the facts which are admitted in the averments made in para 7 and of the writ petition. The admitted position is that in between 2011 to 2016 the Sarpanch was taking work from her relative and the payment which was due to the petitioner was being extended to her relative. The petitioner however has approached this Court only after an order dated 11.12.2019 has been passed whereby he has collaterally been removed. The admitted position is that in between 2011 to 2016 petitioner has not worked. On the contrary he has by his silence tacitly allowed the Sarpanch to pay to his relative, amounts due to the petitioner as remuneration/honorarium.

Petitioner's Counsel places reliance on Annexure 4 to submit that the same specifies that he has worked. The submission however appears to be incorrect. The admission of the petitioner is there in the pleadings in the writ petition. Having absented from duty for five years and allowing the Sarpanch to extend payment to her relative in place of the petitioner, the petitioner cannot be permitted



to invoke the equitable jurisdiction of this Court by raising the plea of procedural lapse in his removal.

This Court is not inclined to exercise jurisdiction in favour of the petitioner.

The writ petition is dismissed.

(Madhuresh Prasad, J)

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