

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7772 of 2020

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Ghazanfar Ali @ Gazanafar Ali Son of Zafar Ahmad Khan Resident of
Mohalla- Lalbagh, P.S.- Laheriyasarai, District- Darbhanga.

... .. Petitioner

Versus

1. The State of Bihar Through the Joint Secretary, Department of Health,
Government of Bihar, Patna.
2. The Principal Secretary, Department of Health, Government of Bihar, Patna.
3. The District Magistrate Madhepura.
4. The Civil Surgeon-Cum- Chief Medical Officer Madhepura.
5. The Deputy Superintendent Sadar Hospital, Madhepura.

... .. Respondents

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Appearance :

For the Petitioner/s : Mr.Pramod Mishra
For the Respondent/s : Mr. Rajeshwar Singh, GA-10

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**CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN
SINGH**

ORAL ORDER

3 25-09-2020 Petitioner was appointed as Dentist on contractual basis, apparently, till regular appointments were made in accordance with the statutory rules on the basis of recommendation of the Bihar Public Service Commission. This is not in dispute that the posts, against which such contractual appointments were made, came to be filled up in December, 2019. The Department of Health learnt that despite regular appointments having been made, some of the Dentists were continuing on contractual basis, which reflected irregularity and lack of responsibility on the part of the Heads of the concerned Institutions/Superintendents/Deputy Superintendents and Civil Surgeons. The Health Department came out with an office order



on 25.02.2020, asking the authorities to ensure that the Dentists, appointed on contractual basis, cease to function, since the regular appointments having already made. The petitioner, however, managed to continue under certain order of the concerned Civil Surgeon.

In the present writ application, the petitioner has challenged a communication dated 05.05.2020 addressed to him asking him to explain the circumstance in which he continued to work on contractual basis and received employment despite clear office order dated 25.02.2020. The petitioner has been asked to explain as to why the amount paid to him for the period during which he worked fraudulently on contractual basis be not recovered.

Learned counsel appearing on behalf of the petitioner has submitted that he was discharging his duties under the orders of the Civil Surgeon and, therefore, the decision of the respondents to recover from him the emoluments paid is unreasonable and arbitrary. He has also submitted that the petitioner has represented before the Joint Secretary, Health Department, Government of Bihar, to consider his case for working on contractual basis against vacant post of Dentist.

Even on the basis of what has been averred in the writ



application, the petitioner has not been able to make out any case showing his right to hold the post. It seems that the petitioner has deliberately not brought on record his appointment letter/order on contractual basis.

Be that as it may, he has not disputed that his contractual engagement came to an end with the engagement of regular Dentists in accordance with law. The petitioner's explanation that he continued under the orders of the Civil Surgeon-cum-Chief Medical Officer is not acceptable to this Court. The Chief Medical Officer is certainly not the appointing authority for the post of Dentist. *Prima facie*, in the Court's opinion, if the Civil Surgeon allowed the petitioner to function in a manner contrary to the petitioner's engagement, despite clear order of the Health Department, he also may be liable to disciplinary action.

This application is frivolous and is accordingly dismissed.

(Chakradhari Sharan Singh, J)

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