

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14926 of 2019

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Kumari Veena, Wife of Shri Dhrub Kumar, resident of Village-Sahit, Ward No.11, Vidyapati Nagar, P.O. and P.S.- Vidyapati Nagar, District- Samastipur, Pin- 848503

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Health Department, Bihar, Patna.
2. Director-in-Chief, Health Services, Directorate of Health, Bihar, Patna.
3. Mrs. Ritu Kumari, Incharge Registrar, Bihar Nurses Registration Council, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner	:	Mr.Abhinav Srivastava, Advocate
For the State	:	Mr.Ramadhar Singh, G.P.-25
For Respondent No.3	:	Mr. Awadhesh Kumar Pandit, Advocate

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CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

19 15-12-2022 The petitioner seeks quashing of an order dated 27.05.2019 issued by the Director-in-Chief, Health Services, Respondent No.2, relieving the petitioner from the post of Registrar of Bihar Nurses Registration Council (hereinafter referred to as 'the Council') and posting her in the capacity an Incharge Principal at the Auxiliary Nurse Midwifery School, Chapra, in the district of Saran.

Mr. Abhinav Shrivastava, learned counsel for the petitioner, has submitted that the Director-in-Chief, Health Services, was incompetent to remove the petitioner from her posting as Registrar of the Council. He has drawn attention of the Court towards the provisions of the Bihar Nurses Registration Council (Appointment and Condition of Service of Registrar) Regulation



(hereinafter referred to as 'the Regulation'), to submit that Regulation 3 deals with appointment, tenure and removal of the Registrar of the Council. This regulation clearly stipulates that “the Government may recall its employee at any time for administrative reasons and the service of the Registrar will in that case automatically be terminated”. He submits that only the "Government" could have removed the petitioner from her posting as Registrar of the Council. Referring to Rules 11, 21, 22, 22(3), 22(4), 22(5), 22(5)(i) and the 4th Schedule of the Rules of Executive Business under Article 166(3) of the Constitution of India, he submits that decision to remove the petitioner from her posting as Registrar of the Council could only have been taken by the Minister.

State Counsel has also made submissions from which it is apparent and not in dispute that the petitioner's tenure of appointment was for three years from 29.06.2016. The same therefore has lapsed long back i.e., in June, 2019 itself. Since the tenure has lapsed, the petitioner cannot be put back as Registrar of the Council.

Examining the issue, whether petitioner's removal is by a competent authority or not, today would be nothing more than a futile exercise and an academic discussion. The petitioner would get no relief and therefore this Court is disinclined to adjudicate upon this issue.

Mr. Srivastava, however, submits that departmental proceedings have been initiated against the petitioner by issuance of



a charge memo on *Prapatra-`K'* dated 13.07.2019, wherein one of the charges is that she has not obeyed the departmental order dated 27.05.2019 removing her from the post of Registrar of the Council and refused to hand over charge of the said post.

This Court would thus observe that since the Court has refused to examine the validity of the petitioner's removal, the petitioner is at liberty to raise all issues before the authority in the proceedings.

The writ petition is dismissed with liberty to the petitioner, as recorded above.

(Madhuresh Prasad, J)

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