

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.24231 of 2019

Sanjay Kumar Son of Kedar Narayan Sinha, Resident of Chitragupta Nagar, Atta Chaki, P.S. Kankarbagh, District- Patna, Presently Posted as Accountant, MGNREGA, Block- Shekhopurn Sarai, District- Sheikhpura.

... .. Petitioner/s

Versus

1. The State Of Bihar through the Chief Secretary, Rural Development Department, Govt. of Bihar, Patna.
2. The Principle Secretary, Rural Development Department, Govt. of Bihar, Patna.
3. The MGNREGA Commissioner, Rural Development Department, Govt. of Bihar, Patna.
4. The Joint Secretary, Rural Development Department, Govt. of Bihar, Patna.
5. The District Magistrate, Sheikhpura.
6. The Deputy Development Commissioner, Sheikhpura.
7. En. Pankaj Sinha, the Lokpal, MGNREGA, Collectorate, District-Sheikhpura.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Rakesh Kumar Sharma
For the Respondent/s : Mr. Sanjay Kumar, AC to AAG-4

CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

6 11-08-2022 Hard copy of the counter-affidavit is being taken on record.

In the instant writ petition, Lokpal (Ombudsman), exercising the jurisdiction under the Instructions on Ombudsman, issued under Section 27 of Mahatma Gandhi National Rural Employment Guarantee Act (for brevity, MGNREGA) has passed order dated 31.08.2019 whereby services of the petitioner as an Accountant, MGNREGA is



sought to be terminated. Petitioner's submission is that order is completely without jurisdiction. Lokpal, under Instructions 13.1, has limited scope for exercise of his power. In order to appreciate this submission, this Court would consider it appropriate to reproduce Clause 13.1 of Instructions on Ombudsman which reads as follows -

13.1 The awards shall be a speaking order consisting of the following components:

- (i) Details of the parties of the case.*
- (ii) Brief facts of the case.*
- (iii) Issues for consideration.*
- (iv) Findings in favour or against issues along with reasons.*
- (v) Direction to the concerned MGNREGA authority regarding performance of its obligations under the MGNREGA and recommendation regarding expediting delayed matters, taking of disciplinary and punitive action against erring persons, etc except imposition of penalties under the MGNREGA.*
- (vi) Costs, if any.*

Submission is that, at best, Lokpal could have recommended disciplinary and punitive action against the



petitioner. Provision does not authorize passing of such order terminating the petitioner as has been done under order dated 31.08.2019. Petitioner has also alleged mala fide against Lokpal who has issued the order and has impleaded him as Respondent No 7 to the instant writ proceedings.

It was in this circumstance that the Court directed for filing counter affidavit. Notice was issued to the respondent No. 7 also.

Respondent no. 7 has not appeared in spite of valid service of notice.

On the other hand, a counter-affidavit has been filed by the Director, DRDA, Shiekhpora. In paragraph 12 of the counter-affidavit, specific stand has been taken that the order passed by the Lokpal is contrary to the guidelines governing the power and jurisdiction of the Lokpal. It has taken note of the fact that the same issue was subject to scrutiny by the Lokpal earlier in Complaint Case No. 04/2017-18, when it was dismissed.

On his own volition, the Lokpal has again taken up the issue, which was previously dismissed, in Complaint Case No. 05/2017-18; and therefore the stand of the respondent is also that the impugned order dated 31.08.2019 is unsustainable



in the eyes of law.

In view of the above noted consideration, this Court would quash the order dated 31.08.2019 passed by the Lokpal, MGNREGA, Sheikhpura in Complaint Case No. 05/2017-18.

The writ petition stands allowed.

(Madhuresh Prasad, J)

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