

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No 630 of 2019

Sumit Kumar S/o Shri Yogendra Prasad Shukla, P.O.- Rampur Garh, P.O. Suryagarha, District- Lakhisarai, since Terminated Executive, BIADA.

... .. Petitioner/s

Versus

1. The State Of Bihar through the Principal Secretary, Department of Industries, Government of Bihar, Vikash Bhawan, New Secretariat, Bailey Road, Patna – 800 001
2. The Industrial Development Commissioner, Government of Bihar -Cum- Chairman, Bihar Industrial Area Development Authority, Patna
3. Bihar Industrial Development Authority (BIADA) through its Managing Director, Patna.
4. The Managing Director, Bihar Industrial Development Authority (BIADA), First Floor, Udyog Bhawan, East Gandhi Maidan, Patna
5. The Secretary, Bihar Industrial Development Authority (BIADA), First Floor, Udyog Bhawan, East Gandhi Maidan, Patna
6. The Executive Director, Bihar Industrial Development Authority BIADA, First Floor, Udyog Bhawan, East Gandhi Maidan, Patna
7. The Chief Executive Officer, Bihar Industrial Development Authority (BIADA), First Floor, Udyog Bhawan, East Gandhi Maidan, Patna
8. Pankaj Kumar Jha, the then Development Officer, Industrial Area- Maranga, BIADA.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr Shantanu Kumar, Advocate
For the S t a t e	:	Mr Kinkar Kumar, SC IX
		Mr Yogesh Kumar, AC to SC IX
For the B I A D A	:	M/s Pankaj Kr Sinha, Aatish Kr, Advocates

CORAM: HONOURABLE MR JUSTICE RAJIV ROY

ORAL JUDGMENT

Date : 11-09-2023

Heard Mr Shantanu Kumar, learned counsel for the petitioner and Mr Astish Kumar who represents BIADA.

2 The petitioner has moved this Court for grant of following reliefs:



“That this writ application is directed for quashing the orders contained in Memo No 244/Shap/202/dev/BIADA/13 dated 16.01.2014 passed by the Secretary, Bihar Industrial Development Authority (hereinafter called as the Authority) under the orders of the Managing Director, BIADA, whereby and where under the services of the petitioner had been terminated with effect from the evening of 10.01.2014 on the ground of unwarranted act (Anuchit Aachran) as well as against the order dated 28.02.2018 communicated through letter dated 27.03.2018 whereby and where under his Service Appeal No 3/2014 has been dismissed by the Principal Secretary, Department of Industries, Government of Bihar without considering any grounds raised in the appeal,

And, for issuance of the writ for reinstatement of the petitioner with all consequential benefits.”

3 It is the case of the petitioner that he was serving to the satisfaction of the respondents but was surprised to receive Memo No 244 dated 16.01.2014 by which his contractual services were terminated after grant of one month's salary.

4 Learned counsel for the petitioner submits that in view of the contractual appointment, as per the agreement signed, the respondents were free to take decision but in absence of any enquiry, the words bad conduct/inappropriate behavior can jeopardize the future of the petitioner.

5 A counter affidavit on behalf of the BIADA is on record and learned counsel for the respondents submits that there



was allegation against the petitioner, which has been incorporated in paragraph 13 and in that background, his services were terminated. Learned counsel for the petitioner has taken this Court to paragraph 19 of the same counter affidavit which reads as follows:

“19. That it is to further submit and state that the relevant clause of BIADA Regulation, 2007 which deals with the renewal/cancellation of contractual period of an employee is being reproduced below as “under Regulation 1.5 (a) of the BIADA Regulation, 2007 makes it apparent as under:-

(a) The services of an employee may be terminated by the MD without assigning any reason by a notice of one month in writing to the employee or on payment of one month pay and allowances in lieu of such notice.”

6 Learned counsel for the petitioner, as such, submits that if there were allegations against the petitioner as incorporated in paragraph 13, the respondents were required to at least conduct a preliminary enquiry in which petitioner could have participated before passing of the order. Alternatively, in light of paragraph 19 of the counter affidavit, it could have been a simple termination without using the words bad conduct/inappropriate behaviour.

7 This Court finds force in the submission put forward by the learned counsel for the petitioner. The contractual obligation clearly shows that the authorities can dispense



with/terminate the services of the petitioner after giving one month's notice and/or one months' salary which has rightly been done and which cannot be questioned. However, while doing so, without allowing the petitioner to answer to any allegation, which was in the domain of respondents, the respondents should have refrained for using the words "*Anuchit Aachran*".

8 In that view of the matter, without interfering with the order passed by the respondent-authorities vide Memo No 244 dated 16.01.2014 issued by the Secretary, BIADA, for all practical purposes, the aforesaid two words "*Anuchit Aachran*" shall be deemed to have been deleted from the order.

9 This order shall be applicable both on Memo No 244 dated 16.01.2014 passed by the Secretary, BIADA as also the appellate order passed by the Principal Secretary, Industries Department, Bihar, Patna.

10 The writ petition stands disposed of with the aforesaid observations.

(Rajiv Roy, J)

M.E.H./-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	13.09.2023
Transmission Date	NA

