

Amar Pratap, S/o Janardan Singh, Resident of Village and P.O.-Belwa, P.S.-Mufassil, District-katihar.

Versus

1. The State of Bihar through the Principal Secretary, Rural Development Department, Government of Bihar, Patna.
2. The Principal Secretary, Rural Development Department, Government of Bihar, Patna.
3. The District Magistrate, Katihar, District-Katihar.
4. The Deputy Development Commissioner, Katihar, District-Katihar.
5. The Sub-Divisional Officer, Katihar, District-Katihar.
6. The Block Development Officer, Dandkhora, District-Katihar.

Appearance :

For the Petitioner/s : Mr. Shashi Bhushan Singh, Advocate
For the Respondent/s : Mr. Vikash Kumar (SC-11)

CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

2 01-08-2023 1. Heard learned counsel for the petitioner and
learned counsel for the State.

2. The petitioner was removed from his contractual existence as a *Grami Awas Sahayak* by an order dated 8-2-2019 passed by the District Magistrate, Katihar.

3. It is submitted by the learned counsel for the petitioner that the petitioner has been removed alleging below performance, whereas others who perform inferior to him, have been retained.

4. Learned counsel for the State submits that from the



avermment in the writ petition, it is apparent that the petitioner's contractual services as *Gramin Awas Sahayak* was terminated by the District Magistrate, in compliance with Clause-7 of the Guidelines (Annexure-8) issued for the purpose as contained in letter dated 21-10-2014 issued by the Rural Development Department. Clause 7 of the same reads as follows:

"(7) अनुबंध पर किया जाना- ऐसे द्रष्टांत आ सकते हैं। जहाँ कर्तव्यहीनता एवं अन्य न्यायसंगत आधार पर ग्रामीण आवास कर्मियों के अनुबंध को रद्द करने की आवश्यकता महसूस हो ।

इस संबंध में प्रखण्ड विकास पदाधिकारी की अनुशंसा तथा उपविकास आयुक्त की समीक्षोपरान्त प्राप्त आरोप पत्र के आधार पर आरोपित पक्ष की सुनवाई के पश्चात जिला पदाधिकारी के द्वारा युक्तियुक्त आदेश पारित किया जायेगा । इस तरह से पारित अनुबंध रद्द आदेश के विरुद्ध अपील विभागीय सचिव / प्रधान सचिव के समक्ष अनुबंध रद्द आदेश पारित किये जाने की तिथि के तीन माह के अंदर किया जा सकेगा।"

5. The petitioner has also preferred an appeal against the order dated 08.02.2019 passed by the District Magistrate. His appeal has been rejected on 3-12-2019 (Annexure-7).

6. The submission is that the writ petition also suffers from delay and laches inasmuch as an order passed in December 2019 has been challenged by way of the instant writ petition filed in February 2023.

7. The petitioner's counsel submits that due to the



outbreak of COVID-19 and the fact that the petitioner is financially weak, the delay has occurred.

8. The issue of the petitioner's disability on account of outbreak of COVID-19 appears to be unfounded. The order of appellate authority is dated 03-12-2019, i.e., about four months prior to imposition of national lockdown and restrictions, in the wake of Covid-19 pandemic. The petitioner has filed the instant writ petition on 02.03.2023, i.e. more than one and a half years even after restrictions ceased to exist. The plea regarding the outbreak of Covid-19 is therefore unfounded.

9. The other aspect of the petitioner's financial incapacity is also unfounded. Had the petitioner exercised due diligence and if was qualified for financial assistance, he could have approached the legal aid services.

10. The plea of delay and laches therefore has not been met sufficiently by the petitioner to overcome the objection raised by the State counsel.

11. The other aspect of the matter is that seeking a comparative appreciation of his performance with some other posted, as *Gramin Awas Sahayak* is a factual dispute, which this Court is not inclined to enter into in exercise of judicial review under Article 226 of Constitution of India. The law is well



settled that the writ Court normally is not expected to sit in appeal of the decision itself, but to confine the scope of judicial review to the decision making process. The procedure laid down in Clause 7 of the letter dated 21-10-2014 having been followed observing the principles of natural justice, this Court is not inclined to exercise discretionary jurisdiction in favor of the petitioner.

12. The writ petition is accordingly dismissed.

(Madhuresh Prasad, J)

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