

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3260 of 2023

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1. Chandan Kishore, Son of Rajendra ram, Resident of Purani Jakkanpur, House No. JKS/C-10 Manjusa gali Police Station Jakkanpur, District-Patna.
 2. Niraj Kumar, Son of Rajeshwar Vishwakarma, Resident of Purvi Unta, Jehanabad, Police Station and District-Jehanabad.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar Patna.
2. The Principal Secretary, Revenue and Land Reforms Department, Government of Bihar, Patna.
3. The Director, Directorate of Land Records and Survey, Government of Bihar Patna.
4. The Assistant Director, Directorate of Land Records and Survey, Government of Bihar Patna.
5. The Assistant Settlement Officer, Saharsa.
6. The Assistant Settlement Officer, Nalanda.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Ravindra Nath Dubey, Advocate
For the Respondent/s : Mr. Navnit Kumar, AC to GP-18

CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL JUDGMENT

Date : 10-08-2023

1. The petitioners' appointment on newly created contractual post of a Special Survey Amin in terms of advertisement No. 01/2019 has been cancelled. The petitioners have assailed cancellation of their appointment under order dated 15-12-2021 issued by the Director, Directorate of Land Records and Survey.

2. The cancellation of their contractual appointment is on the ground that they have submitted diploma in civil



engineering from one Mewar University, Gangrar at Chittorgarh in Rajasthan (for short "University"). The department issued letters to the University on 10-08-2021 and 19-08-2021 for verifying the certificate submitted by petitioner nos. 1 and 2 respectively. In response thereto, the University has sent two letters dated 4-9-2021 and 9-9-2021 informing the department that the certificate is not confirmed from the records. Relying upon such communication, the respondents have cancelled the petitioners' contractual appointment.

3. The learned counsel for the petitioners submits that based on such an exercise behind the back of the petitioners without even making available copy of the communication received from the University, the petitioners' appointment has been cancelled and direction has been made for recovery of amounts paid to them while they discharged the contractual duties as a Special Survey Amin. The orders having penal consequences not being preceded by compliance with the principles of natural justice, are unsustainable. It is submitted that upon the very same exercise, the department has also taken a decision to lodge a police case against the petitioners which is evident from the impugned order itself.

4. The learned State counsel, on the other hand,



submits that after due verification by the authorities from the University from which the petitioners claim to have obtained the Diploma in civil engineering, the action has been taken. The petitioners' appointment is contractual and therefore the same having been obtained on the basis of forged and fabricated certificate is *void ab initio*.

5. On consideration of the rival submissions, this Court would find that in so far as the consequence of recovery is concerned, such penal consequences cannot be inflicted on the petitioners based on replies dated 4-9-2021 and 9-9-2021 sent by the University, wherein they have stated that the petitioners' certificates are not confirmed from the records in the University, simply for the reason that copy of these letters have not been made available to the petitioners and no opportunity has been given to the petitioners to even submit a show-cause in respect of the said communications issued by the University. Nonetheless the moment the petitioners are to be visited with penal consequences, at least the authorities are required to comply with the principles of natural justice by issuing a show-cause with reference to the letters received from the University denying the petitioners' diploma.

6. The impugned order dated 15-12-2021, insofar as



the consequence of recovery of amounts paid to the petitioners during their contractual services is concerned, is unsustainable and hereby quashed. No recovery is to be made on the basis of the said order from the petitioners.

7. The authorities, however, are not precluded from proceeding by way of show-cause after furnishing a copy of the letters received from the University.

8. Writ petition is allowed to the above extent.

(Madhuresh Prasad, J)

SUMIT/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	17.08.2023
Transmission Date	NA

