

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3684 of 2023

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Ranjan Kumar @ Rajan Kumar son of Nawal Baitha, Resident of-Narwara,
P.S.-Tariyani, District-Shivhar.

... .. Petitioner/s

Versus

1. The State of Bihar through the Director, BAMETI, Bihar, Patna.
2. The State Nodal Officer, Aatma, Bihar, Patna.
3. The Collector cum ther Chairman (Aatma Sashi Parisad) Sheohar, District-Sheohar.
4. The DDC cum the Deputy Chairman (Aatma Sashi Parisad) Sheohar, District-Sheohar.
5. The programmed Director (Aatma), Sheohar, District-Sheohar.
6. The District Agriculture Officer, Sheohar, District-Sheohar.
7. The Block Agriculture Officer, Purnahiya, District-Sheohar.
8. The In-charge Block Technical Manager, Purnahiya, District-Sheohar.

... .. Respondent/s

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Appearance :

For the Petitioner	:	Mr. Siyaram Shahi, Advocate
For the State	:	Mr. Mithilesh Kumar Singh, AC to SC- 15

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CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD

ORAL JUDGMENT

Date : 31-08-2023

Heard learned counsel for the petitioner and learned counsel for the State.

2. Petitioner was working as ‘Assistant Technical Manager’ at *Purnahiya* in the district of Sheohar. He has been found in inebriated condition and was arrested, to be released only on payment of penalty under the Bihar Prohibition and Excise Act.

3. Mr. Shahi, learned counsel for the petitioner,



submits that though contractual, the dispensation of petitioner's service was required to be at least preceded by a show cause notice, which has not been done.

4. Learned counsel for the State, on the other hand, submits that a show cause was asked from the petitioner on 15-06-2022. In response thereto, he has confessed to the alleged misconduct, and thereafter, the impugned order has been issued.

5. The averments have been made in the counter affidavit, without placing on record any material to show that show cause was issued, let alone the petitioner's admission. It is trite law that the averments in the writ petition are distinct from pleadings in a plaint in a civil suit. In a writ proceedings, the averments in the writ petition are required to be supported by documents to be annexed with the affidavit, as the matter in issue is considered and decided based on affidavits.

6. If the petitioner or the respondent does not support the averments by annexing documents, the plea taken may not be considered by this Court. This Court in this connection would consider it useful to reproduce paragraph 15 of judgment of the Apex Court in the case of ***Rajasthan Pradesh Vaidya Samiti & Anr vs. Union of India & Ors*** reported in ***(2010) 12 SCC 609***, relying on earlier decision of the Apex Court in the case of



Bharat Singh & Ors. vs. State of Haryana & Ors reported in
(1988) 4 SCC 534 which reads as follows:-

“15. It is a settled proposition of law that a party has to plead the case and produce/adduce sufficient evidence to substantiate his submissions made in the petition and in case the pleadings are not complete, the court is under no obligation to entertain the pleas. In Bharat Singh v. State of Haryana [(1988) 4 SCC 534 : AIR 1988 SC 2181] this Court has observed as under : (SCC pp. 542-43, para 13)

“13. ... In our opinion, when a point which is ostensibly a point of law is required to be substantiated by facts, the party raising the point, if he is the writ petitioner, must plead and prove such facts by evidence which must appear from the writ petition and if he is the respondent, from the counter-affidavit. If the facts are not pleaded or the evidence in support of such facts is not annexed to the writ petition or to the counter-affidavit, as the case may be, the Court will not entertain the point. ... there is a distinction between a pleading under the Code of Civil Procedure and a writ petition or a counter-affidavit. While in a pleading i.e. a plaint or a written statement, the facts and not evidence are required to be pleaded, in a writ petition or in the counter-affidavit, not only the facts but also the evidence in proof of such facts have to be pleaded and annexed to it.”

7. In view of the fact that respondents have only made bald assertions regarding issuance of a show cause and the petitioner's confession, without annexing copy of show cause,



or any documentary material in support thereof, the Court is not inclined to accept the submission. In absence of show cause, consequences of the impugned office order are not sustainable.

8. The petitioner therefore, in the opinion of this Court, and having regard to the nature of his services, being contractual, shall not be visited with any stigma based on the impugned officer order dated 19-12-2022, passed by the Project Director (Aatma), Sheohar.

9. With the aforesaid observation/s, writ petition is disposed of.

(Madhuresh Prasad, J)

Raj kishore/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	15-09-2023
Transmission Date	N/A

