

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3869 of 2023

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Hridya Nand Rai son of Gorakh Rai, Resident of Village-Lalganj Kadri, Ward No-3, P.S.-Dumaron, District-Buxar.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Rural Development Department, Government of Bihar, Patna.
2. The Commissioner MANREGA, Rural Development Department, Government of Bihar, Patna.
3. The District Magistrate-cum-District Programme, Co-ordinator, Rohtas, Sasaram, District-Rohtas at Sasaram.
4. The Deputy Development Commissioner, Rohtas, Sasaram, District-Rohtas at Sasaram.
5. The Programmer Officer, Chenari, District-Rohtas at Sasaram.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Rajiv Ranjan Kr. Pandey, Advocate
For the Respondent/s : Mr.Sanjay Kumar, A.C. to A.A.G.-4

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CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

8 09-10-2023 Heard learned counsel for the petitioner and the learned State counsel.

2. The petitioner was working as Panchayat Rojgar Sewak under the MGNREGA. He has been removed by the order (Annexure-4) of the Deputy Development Commissioner, Rohtas (respondent No. 4). The removal is preceded by an allegation of deficiency in his work in implementing the afforestation programme and also insubordination.

3. It is submitted by the learned counsel for the petitioner that the allegations pertain to the period when there



was large scale limitations arising out of the National Lockdown imposed on account of Covid-19 pandemic. The other Rojgar Sewaks within the district were also put to show cause like the petitioner. Against all these persons, the allegation was one and the same. The petitioner has been visited with the extreme consequence of removal from the duties of Panchayat Rojgar Sewak (Contractual) whereas in the case of other similarly situated, the Commissioner, MGNREGA has interfered with the punishment and brought it down to withholding of increments. The submission is two folds that the allegations pertain to period when it was impossible to carry out the MGNREGA programmes in view of abnormal circumstances arising out of various Covid-19 pandemic based restrictions. Other submission is disparity in the matter of punishment.

4. The learned State counsel submits that the action is preceded by show cause and after affording the petitioner an opportunity. He has availed the appeal and the review before the authorities. There being no procedural infirmity, the Court should not interfere in the matter.

5. Considering the rival submissions of the parties, this Court would take notice of the period during which the allegation is made between July, 2020 to August, 2020. It is well



known fact that there were various restrictions on account of lockdown based on Covid-10 pandemic during the said period. The Court would also take notice of the fact that others, against whom similar allegation has been made for the same period, their punishments have been toned down by the Commissioner, MGNREGA which is apparent from Annexure-7 series of the writ application.

6. In view of the circumstances, the Court is inclined to remit the matter to the Commissioner, MGNREGA to consider the petitioner's claim for parity in the matter of punishment. The matter is remitted to Respondent No. 2. The Court, while doing so, would quash the earlier order dated 07.05.2022 in view of the consideration above; and for enabling appreciation of the petitioner's claim for parity and consideration of the plea regarding Covid-19 pandemic.

7. The writ application is, accordingly, allowed.

(Madhuresh Prasad, J)

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