

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2926 of 2021

Mukul Kumar S/o Sri Ramlala Singh, R/o Village and P.O. - Chhajan,
Harishankar, P.S. - Kudhani, District – Muzaffarpur Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Rural Development Department, Govt. of Bihar, Patna.
2. The Director, Rural Development Department, Bihar, Patna.
3. The Divisional Commissioner, Tirhut Division, Muzaffarpur.
4. The District Magistrate, Muzaffarpur.
5. The Deputy Development Commissioner, Muzaffarpur.
6. The District, Rural Development Agency, Muzaffarpur.
7. The Block Development Officer, Paru, Muzaffarpur.

... .. Respondents

Appearance :

For the Petitioner : Mr.Bipin Kumar, Advocate
For the Respondents : Mr.

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL JUDGMENT

Date : 19-01-2023

Writ petition has been filed for quashing order contained in letter dated 15.9.2018 (Annexure 12), passed by the Deputy Development Commissioner, Muzaffarpur by which petitioner's contractual service to the post of Gramin Aawas Sahayak (GAS) under the Indira Aawas Yojana, has been terminated. He has further challenged consequential order dated 12.10.2020 (Annexure 13A), passed by the Principal Secretary, Rural Development Department, Government of Bihar by which order of termination of the petitioner has been affirmed.

It is contended by learned counsel appearing for the petitioner is that under the guidelines issued by the Government of Bihar, Patna the service conditions and the manner in which



contractual employment can be cancelled as enumerated in the Guidelines of the Government. The guidelines deals with cancellation of contractual appointment by the District Magistrate, if the services of the employee is not found to be satisfactory and after affording opportunity of hearing to the employee. It has further been stated in the guidelines that on the recommendation of BDO and review made by the Deputy Development Commissioner of the charges levelled against the employee, speaking and reasoned order is to be passed by the District Magistrate, after complying the principles of natural justice and giving reasonable opportunity to the delinquent employee to defend himself against the charges levelled against him. However, in the present case, order states that the decision to cancel the contractual employment has been taken by the Deputy Development Commissioner, Muzaffarpur, who is not the competent authority and appeal filed against said order has been dismissed by the Principal Secretary, Rural Development Department, Government of Bihar, Patna (respondent no.1).

On the other hand, learned counsel appearing for the State supports the impugned order and submits that the impugned order does not suffer from any illegality. However, he is unable to controvert the stand taken by the petitioner.



After hearing the parties and on going through the provisions contained in the guidelines, I find that these two orders Annexure 12 and 13A, respectively dated 15.9.2018 and 12.10.2020, are not sustainable in law and are, accordingly, set aside as these orders have been passed dehors the provisions contained in guidelines. As per the guidelines, it was the District Magistrate who is competent to pass order terminating service of the petitioner, on the recommendation of the Block Development Officer and review made by the Deputy Development Commissioner, of the charges levelled against him, by a reasoned and speaking order after hearing the parties.

Since theses orders have been set aside on the ground of procedural infirmities, respondent authorities are at liberty to pass afresh order on the basis of memo of charge in terms of guidelines issued by the Government in accordance with law after hearing the parties.

Writ petition is accordingly allowed only to the extent indicated above.

shashi/-

(Prabhat Kumar Singh, J)

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	31.1.2023.
Transmission Date	

