

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.445 of 2023

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Randhir Kumar, S/o Niranjan Kumar Choudhary, Resident of Village-Bagwara, P.S- Begusarai Muffasil, District- Begusarai.

... .. Petitioner

Versus

1. The State of Bihar through the Principal Secretary Rural Development Department, Govt. of Bihar, Patna.
2. The District Magistrate, Begusarai.
3. The Deputy Development Commissioner, Begusarai.
4. The Sub-Divisional Officer, Manjhaul, District- Begusarai.
5. The Sub-Divisional Public Grievances Redressal Officer, Manjhaul, District- Begusarai.
6. The Block Development Officer, Cheria Bariyarpur, District- Begusarai.

... .. Respondents

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Appearance :

For the Petitioner/s : Mr. Amarendra Kumar, Advocate
For the Respondent/s : Mr. Akash Chaturvedi, AC to SC-11

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

4 25-04-2023 Heard learned counsel for the petitioner and the State.

2. The petitioner in the present case has sought quashing of the office order contained in Memo No. 1007 dated 21.11.2022 issued under the signature of Deputy Development Commissioner, Begusarai by which the contractual engagement of the petitioner as Gramin Awas Sahayak has been terminated.

3. It appears on perusal of the records that the action leading to termination of the petitioner was initiated on the basis of a complaint made by one Kumari Suman Sinha wife of Puneet Kumar Sinha before the Sub-Divisional Public Grievance Officer, Manjhaul, District-Begusarai. She had



received first installment of Rs.40,000/- for constructing house as beneficiary under Indira Awas Yojana. She claimed that she had completed the construction and the Awas Sahayak Randhir Kumar did not give geo tag so that she could receive second and third installment for construction and further he had given wrong information to the Block Development Officer, Cheriya Bariyarpur which resulted in registration of a certificate case against her. She made complaint of demand of illegal gratification by this petitioner.

4. It further appears that the petitioner was served with a show cause notice, he submitted his explanation wherein he denied the allegations. The petitioner came out with a stand that the complainant had received first installment illegally giving wrong fact and when a certificate case was instituted against her, she made baseless allegations against the petitioner. The explanation of the petitioner was considered but the Sub-Divisional Public Grievance Officer, Manjhaul recommended initiation of disciplinary action against him. The Block Development Officer, Cheriya Bariyarpur also sent a report to the Deputy Development Commissioner, Begusarai for taking legal action against the petitioner. The Deputy Development Commissioner gave an opportunity to the petitioner to show



cause whereupon the petitioner submitted his explanation but not being satisfied with the same, ultimately the impugned order had been issued.

5. On the last date i.e. 14.03.2023 after hearing learned counsel for the petitioner, this Court passed the following order:-

“14.03.2023 Heard learned counsel for the petitioner and learned counsel for the State.

Learned counsel for the petitioner has brought to the notice of this Court Annexure ‘3’ which are the work experience certificate and letter of recommendations issued by the Block Development Officer, Cheriya, Bariyarpur Begusarai on 28.04.2022 and 30.04.2022 respectively.

Learned counsel submits that from the impugned order, it would appear that the Block Development Officer is said to have written Letter No. 856 dated 22.07.2022 to the Deputy Development Director, Begusarai wherein he has alleged that the Gramin Awas Sahayak does not distribute the second installment to the beneficiary until his illegal demand is fulfilled.

Learned counsel submits that it is difficult to believe that the petitioner who works as Gramin Awas Sahayak would be so powerful that he would not distribute the second installment due to non-fulfillment of his demand. It is further submitted that the Block Development Officer who had issued recommendation letter and had recorded a high opinion about the work and function of the petitioner only three months back had no reason to make such general and sweeping allegation in his letter dated 22.07.2022.

Learned counsel further submits that in his reply to the show cause notice, he had submitted that the complainant had already constructed her house about 7-8 years back and had drawn the first installment illegally. He had also informed the Block Development Officer that the complainant had been served with a red



notice and a certificate case had been initiated against her vide Certificate Case No. 69 of 2021-22 whereafter to save herself from the certificate case, she is claiming an old house as newly constructed house.

Learned counsel for the State prays for four weeks' time to file a counter affidavit.

List this matter after four weeks on 12.04.2023 under the same heading maintaining its position.

In the meantime, the District Magistrate, Begusarai shall conduct an inspection of the house in question of the complainant Kumari Suman Sinha to find out as to whether the said house has been constructed 7-8 years back or the same has been constructed after disbursement of first installment but before initiation of the certificate proceeding. The role of Gramin Awas Sahayak and other supervisory authority over and above him be also informed. A clear report on this be submitted to this Court with the counter affidavit.

List accordingly.”

6. Pursuant to the aforesaid order, a counter affidavit has been filed on behalf of respondent nos. 2 to 4. The Block Development Officer, Cheriya Bariyarpur, Begusarai has sworn the affidavit. It is submitted that in terms of the order of this Court, the District Magistrate, Begusarai personally inspected the house of the complainant and upon collection of the materials in form of the statements of Ex-Mukhiya of Panchayat, Ex-Member, Zila Parishad and other villagers, the District Magistrate, Begusarai has submitted an Inspection Report vide Memo No. 1109 dated 05.04.2023 (Annexure 'A' to the counter affidavit). The Inspection Report of the District



Magistrate concludes that the house of the complainant was constructed only after getting the first installment but this petitioner had wrongly got filed a certificate case against her. It has been found that the petitioner had not discharged his duties and responsibilities bonafidely. The District Magistrate, Begusarai has, thus, held that the termination of the petitioner is just and proper.

7. At this stage, learned counsel for the petitioner submits that the District Magistrate is the Appellate Authority against the order of the Deputy Development Commissioner, therefore, he should not have recorded that the termination of the petitioner was just and proper.

8. Having heard learned counsel for the petitioner and the State as also on perusal of the records, this Court finds that the petitioner was working as Gramin Awas Sahayak and it was his responsibility to visit his areas and supervise the progress of the construction work under the schemes. He was responsible to get photography of the under-constructed house and the completely constructed house. Even the first installment towards construction of a house under the scheme is made available to a beneficiary only after carrying out verification of the spot and other relevant information in which the petitioner has a role to



play.

9. The District Magistrate has found that the house in question was constructed by the complainant after the first installment was received by her but thereafter this petitioner got a certificate case filed against her. The case of the complainant was that the certificate case was filed against her only after she did not satisfy the demand of illegal gratification by the petitioner.

10. Be that as it may, the facts remain that the Deputy Development Commissioner has passed the impugned order after giving adequate opportunity of hearing to the petitioner. The District Magistrate has himself inspected the house and submitted a report, therefore, this Court sitting under Article 226 of the Constitution of India would not go into the finding of facts and record any other opinion over the opinion of the Deputy Development Commissioner, Begusarai and District Magistrate, Begusarai in the facts of the present case.

11. So far as the contention of learned counsel for the petitioner that the District Magistrate is the Appellate Authority, therefore, he should not have held that the cancellation of contract of the petitioner is just and proper, this Court is of the considered opinion that the petitioner filed this writ application



directly without disclosing the fact that the petitioner has got an alternative remedy. In paragraph '36' of the writ application, a specific statement has been made that the petitioner has no alternative remedy.

12. Under these circumstances, this Court exercised its extra-ordinary writ jurisdiction calling upon the District Magistrate to personally inspect the house, verify the other circumstances and submit a report. The petitioner having abandoned his remedy of alternative remedy cannot be allowed to come back and say that he had an alternative remedy and the District Magistrate being Appellate Authority could not have made any observation with regard to the cancellation of the contract of the petitioner. The order dated 14.03.2023 was passed at the instance of the petitioner, therefore, this plea is not available to him at this stage.

13. This Court finds no merit in this writ application. It is dismissed.

(Rajeev Ranjan Prasad, J)

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