

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15512 of 2012

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Manoj Kumar Mahto S/O Kedar Mahto Resident Of Village- Madhubani, P.S- Sangrampur, District- East Champaran.

... .. Petitioner/s

Versus

1. The State Of Bihar through the Principal Secretary, Panchayati Raj Department, Government of Bihar, Patna.
2. The Principal Secretary, Panchayati Raj Department, Government Of Bihar, Patna.
3. The District Magistrate, East Champaran At Motihari.
4. The Sub- Divisional Officer, Areraj, East Champaran.
5. The District Panchayati Raj Officer, East Champaran.
6. The Block Development Officer, Sangrampur, District- East Champaran.
7. The Sarpanch, Panchayati Raj Uttari Madhubani, P.S- Sangrampur, District- East Champaran.
8. Shivji Kumar S/O Bhulan Sahni Resident Of Village- Madhubani, P.S- Sangrampur, District- East Champaran.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Krishna Kant Singh, Advocate
For the Respondent/s	:	Mr. Raghwanand, GA 11
		Mr. Pratik Kumar, AC to GA 11
For the Respondent no.8:		Mr. Ram Chandra Sahni, Advocate

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CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL JUDGMENT

Date : 23-04-2024

Heard learned counsel for the petitioner, learned counsel appearing on behalf of the respondent no. 8 as well as learned counsel appearing on behalf of the State.

2. The present writ petition has been filed for the following reliefs:-

“i. For issuance of a writ in the nature of certiorari for quashing the order dated 07.10.2011, passed by the District Magistrate, East Champaran, Motihari in Case No. 67 of 2009 whereby and whereunder the order dated 15.03.2009 passed by the Sub-Divisional Officer, Areraj has been affirmed and the services of the petitioner as Sachiv, Gram Kutchery Uttari



Madhubani has been terminated.

ii. For issuance of a writ in the nature of certiorari to quash the order dated 15.03.2009, passed by Sub-Divisional Officer, Areraj, East Champaran in Case No. 09M of 2009 and order vid memo no. 853 dated 11.08.2009 whereby the services of the petitioner as Sachiv Gram Kutchery Uttari Madhubani has been set aside and the private respondent no. 8 has been directed to be appointed and also to quash memo no. 184 dated 02.07.2012 which is contrary to law.

Iii. For issuance of a writ in the nature of certiorari to quash the order as contained in memo no. 853 dated 14.08.2009, issued under the signature of the District Panchayati Raj Officer, East Champaran whereby the selection of the petitioner has been set aside.

iv. For issuance of a writ in the nature of mandamus directing the concerned respondent authorities to treat the petitioners as Sachiv, Gram Kutchery Uttari Madhubani all along and to pay his remuneration from the date of his joining till date and for other necessary relief/reliefs to which the petitioner is entitled to in the facts and circumstances of the matter as stated hereinafter.”

3. Learned counsel for the petitioner submits that the petitioner had applied for the post of Sachiv, Gram Kutchery in Panchayati Raj Uttari Madhubani, District- East Chamaparan and date of counseling was fixed on 02.11.2007 and the petitioner along with other candidates have appeared for their counseling where respondent no. 8 was found at serial no. 1 who did not produced his original certificates and a decision



was taken by the respondents concerned that if the respondent no. 8 will submit his original certificates till 06.11.2007 then only his case will be considered. He further submits that since the respondent no. 8 did not produced his original certificates till 06.11.2007 as fixed by the selection committee hence, the petitioner has been made an offer of appointment and the petitioner has been appointed on the post in question.

4. Learned counsel for the petitioner submits that as per the Sachiv Gram Kutchery Appointment Rule, the person aggrieved must file an objection within a period of 30 days but in the present case the respondent no. 8 has not filed any objection within the aforesaid period. Thereafter, the respondent no. 5 had issued an order by which the respondent no. 5 has cancelled the candidature of the petitioner and directed the concerned respondents to appoint the respondent no. 8 on the post in question. He further submits that aggrieved by the action of the respondent no. 5 the petitioner has challenged the same before this Hon'ble Court in CWJC No. 12066 of 2009 which was disposed of vide order dated 14.09.2009 directing the petitioner to approach respondent no. 3 i.e. District Magistrate, and the District Magistrate was directed to pass a fresh order after giving due opportunity to the petitioner.



5. Learned counsel for the petitioner submits that in the meantime, the respondent no. 4 also cancelled the candidature of the petitioner and in light of the direction of this Hon'ble Court the petitioner has filed an application before the respondent no. 3 challenging the order of the respondent nos. 4 and 5 and the respondent no. 3 after hearing the parties has been pleased to dismissed the application of the petitioner.

6. Learned counsel for the petitioner submits that from perusal of the Annexure-5 it appears that the respondent no. 3 had come to the conclusion that in the Annexure-5 there is some manipulations and on the sole ground he has dismissed the application of the petitioner. He further submits that from perusal of the proceeding of the meeting it appears that "प्रस्ताव संख्या 4 - सर्वसम्मति से यह भी निर्णय लिया गया की काउंसलिंग में उपस्थित अभ्यर्थियों द्वारा कुछ प्रमाण पत्र नहीं दिया गया है वे दिनांक 6.11.2007 तक ग्राम कचहरी कार्यालय को सुपूर्त कर देंगे। कागजात सुपूर्त नहीं करने वाले काउंसलिंग में उपस्थित अभ्यर्थियों के आवेदन पर विचार नहीं किया जाएगा।" and apart from that it appears that from the proceeding of the meeting that the respondent no. 8 had not submitted the requisites certificates on the date of counseling.



7. Learned counsel appearing on behalf of the respondent no. 8 has filed a counter affidavit and submits that due to mismatch in his name the petitioner has not submitted the requisite certificates on time and after rectification of the same he has submitted the said documents before the concerned authorities after the cut off date i.e. 06.11.2007.

8. In view of the aforesaid, the order dated 07.10.2011 is set aside and the matter be remanded back to respondent no. 3 to take a fresh decision after hearing the parties and the petitioner and respondent no. 8 are directed to file their **comprehensive** before the respondent no. 3 and the respondent no. 3 is directed to pass an order within a period of three months from the date of receipt/production of the copy of this judgment. It is further directed that till the final decision of the respondent no. 3, the respondent no. 8 shall continue his work.

9. Accordingly, the writ petition stands disposed of.

(Rajesh Kumar Verma, J)

Vanisha/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	30.04.2024
Transmission Date	N/A

