

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13958 of 2023

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Dharmendra Kumar Son of Shri Ramdeo Prasad Yadav, R/o Khapra,
Sangrampur, District - Munger, Bihar.

... .. Petitioner/s

Versus

1. State of Bihar through Secretary, Rural Development Department,
Government of Bihar, Patna.
2. Bihar Rural Development Society, Government of Bihar, Patna.
3. Secretary/President, Rural Development Department/Bihar Rural
Development Society, Government of Bihar, Patna.
4. Commissioner/CEO (MGNREGA), Rural Development Department/Bihar
Rural Development Society, Government of Bihar, Patna.
5. State Programme Officer (MGNREGA), Bihar Rural Development Society,
Government of Bihar, Patna.
6. District Magistrate, Bhagalpur.
7. Additional Sub-divisional Magistrate, Bhagalpur.
8. Deputy Development Commissioner, Bhagalpur.
9. Director, District Rural Development Agency, Bhagalpur.
10. District Programme Officer (MGNREGA), Bhagalpur.
11. Assistant Engineer, Sadar Bhagalpur.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Siddhartha Prasad, Advocate Mr. Om Prakash Kumar, Advocate
For the Respondent/s	:	Mr.Vinay Kirti Singh (GA- 2) Mr. Rajan Prakash, AC to GA-2

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

2 15-04-2024 The present writ petition has been filed

for quashing the order dated 07.05.2022 passed by

the District Magistrate, Bhagalpur, whereby and

whereunder the contract of the petitioner has

been cancelled and the services of the petitioner



have been terminated. The petitioner has also challenged the appellate order dated 27.04.2023 passed by the Secretary, Rural Development Department, Bihar Rural Development Society, Government of Bihar, Patna. The order of recovery dated 22.08.2022 passed by the Deputy Development Commissioner, Bhagalpur has also been challenged in the present writ petition.

2. Shorn of the unnecessary details, it would suffice to state that the petitioner was initially appointed in the year 2007 and was continuously working as a Programme Officer at Mahatma Gandhi National Rural Employment Guarantee Scheme (hereinafter referred to as the 'MGNREGA'). In the year 2021 the contract of the petitioner was extended till the time he attains the age of retirement. It is the case of the petitioner that suddenly by an order dated 25.03.2022, the District Magistrate, Bhagalpur had issued a show cause to the petitioner calling upon him to submit his clarification with regard to the irregularities found in supply of materials pertaining to the



MGNREGA scheme, as also pointed out by the Three Men Committee, in the report submitted by the said Enquiry Committee, to which the petitioner had submitted his reply dated 01.04.2022, however, the same was found to be unsatisfactory and i.e. how the impugned order dated 07.05.2022 came to be passed by the District Magistrate, Bhagalpur, whereby and whereunder the contract of the petitioner has been cancelled and the services of the petitioner have been terminated. The petitioner had then filed an appeal, however, the same has been dismissed by the appellate order dated 27.04.2023 and then the Deputy Development Commissioner, Bhagalpur has issued an order dated 22.08.2022, *inter alia*, directing for making recovery of the loss amount from the petitioner.

3. The learned counsel for the petitioner has referred to the circular dated 25.03.2022 issued by the Commissioner, MGNREGA-cum-BRDS i.e. the respondent no. 4, whereby and whereunder guidelines have been prescribed for taking



disciplinary action against the working employees of BRDS to show that clause-3(ख) thereof, provides that in case the clarification of an employee is found to be unsatisfactory, the principle of natural justice has to be followed and action has to be taken after giving an opportunity of hearing to the said employee and only then the punishment is to be inflicted on the basis of the nature and seriousness of the irregularity. It is submitted that in the present case, after the District Magistrate, Bhagalpur had found the clarification/show cause reply of the petitioner dated 01.04.2022 to be unsatisfactory, he has straightaway terminated the contract of the petitioner and has also terminated his services, without giving any opportunity of hearing to the petitioner, which is contrary to the aforesaid clause-3(ख) of the circular dated 25.03.2022, hence the order dated 07.05.2022 passed by the District Magistrate, Bhagalpur as also the appellate order dated 27.04.2023 and the order dated 22.08.2022 passed by the Deputy Development Commissioner, Bhagalpur, whereby



and whereunder recovery has been sought to be made from the petitioner, are illegal, thus are fit to be set aside.

4. *Per contra*, though the learned counsel for the respondent-State has opposed the present writ petition by stating that the petitioner has engaged in gross irregularity and illegality causing loss to the respondents, however, he has not been able to deny the provisions stipulated in clause-3(ख) of the aforesaid circular dated 25.03.2022.

5. I have heard the learned counsel for the parties and perused the materials on record from which this Court finds that once the disciplinary authority finds the show cause reply of the concerned employee to be unsatisfactory, he is required to grant an opportunity of hearing to the said employee before proceeding further to inflict punishment upon such an employee.

6. Admittedly, in the present case, no opportunity of hearing was granted to the petitioner after the District Magistrate, Bhagalpur had found his show cause reply to be



unsatisfactory and on the contrary the impugned order dated 07.05.2022, cancelling the contract of the petitioner as also terminating his services was passed. In such view of the matter, I find that the impugned order dated 07.05.2022 passed by the District Magistrate, Bhagalpur is illegal, perverse and unsustainable in the eyes of law being contrary to clause-3(ख) of the aforesaid circular dated 25.03.2022, hence is quashed. Consequently, the appellate order dated 27.04.2023 passed by the respondent no. 3 as also the order dated 22.08.2022 passed by the Deputy Development Commissioner, Bhagalpur have got no legs to stand, hence are also set aside. However, the matter is remanded back to the District Magistrate, Bhagalpur, who shall grant an opportunity of hearing to the petitioner and thereafter, pass the final order within a period of six weeks of receipt/production of a copy of this order.

7. It is needless to state that the consequential benefits would abide by the final outcome of the proceedings in question as also



shall be subject to the final order to be passed by
the District Magistrate, Bhagalpur.

8. The writ petition stands allowed.

(Mohit Kumar Shah, J)

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