

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.159 of 2024

In
Civil Writ Jurisdiction Case No.14328 of 2021

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Imtiyaj Bharti Son of Md. Salim Resident of Village and P.O.- Bazidpur,
Police Station- Vidyapati Nagar, District- Samastipur.

... .. Appellant

Versus

1. The State of Bihar through the Principal Secretary, Rural Development Department, Government of Bihar, Patna.
2. The District Collector, Samastipur.
3. The Deputy Development Commissioner, Samastipur.
4. The Sub-Divisional Officer, Dalsinghsarai, District- Samastipur.
5. The Block Development Officer, Block- Dalsinghsarai, District- Samastipur.
6. The Block Development Officer, Mohiuddin Nagar, District- Samastipur.

... .. Respondents

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Appearance :

For the Appellant : Mr. Lakshmindra Kumar Yadav, Advocate
For the Respondents : Mr. Additional Advocate General-4

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CORAM: HONOURABLE MR. JUSTICE SUDHIR SINGH
and
HONOURABLE MR. JUSTICE RANJAN KUMAR JHA
ORAL ORDER

(Per: HONOURABLE MR. JUSTICE SUDHIR SINGH)

2 06-07-2026 Heard learned counsel for the parties.

2. The present *intra court* appeal has been preferred against the order dated 18.01.2024 passed by the learned Single Judge in C.W.J.C. No.14328 of 2021, whereby the writ petition preferred by the appellant came to be dismissed.

3. The brief facts of the present case are that the appellant was duly appointed under a Scheme. Subsequently, Memo No.1958 dated 07.08.2019 came to be passed, whereby



the services of the appellant were terminated. Aggrieved by the order of termination, the appellant preferred a departmental appeal before the Collector. The said appeal was dismissed by order dated 07.04.2021. Challenging the aforesaid orders of termination and dismissal of the departmental appeal, the appellant invoked the writ jurisdiction of the High Court by filing C.W.J.C. No. 14328 of 2021.

4. The learned Single Judge while deciding the matter, observed as follows:

*“2. At the outset, the learned counsel for the petitioner seeks not to press the present writ petition, however, seeks liberty on behalf of the petitioner to avail such other alternative remedies as are otherwise available under the law, including that of filing a civil suit before the learned Civil Court having competent jurisdiction, for redressal of his aforesaid grievances. Liberty so sought is granted.
3. The writ petition stands dismissed as not pressed.”*

5. Learned counsel for the appellant submits that the impugned order of termination is vitiated by violation of the principles of natural justice. It was contended that the appellant was not afforded a fair and effective opportunity of hearing



before his services were terminated. It was further submitted that the allegations had already been found to be baseless in two earlier inquiry reports, yet the respondents proceeded to terminate the appellant's services without due process.

6. Per contra, learned counsel for the respondents submits that no interference with the impugned judgment of the learned Single Judge is called for. It is contended that, before the learned Single Judge, the appellant did not press the challenge to the order of termination. Having abandoned the substantive challenge before the learned Writ Court, the appellant cannot now be permitted to assail the impugned judgment in the present appeal.

7. It is a settled principle of law that a litigant who voluntarily withdraws or does not press a proceeding cannot subsequently challenge the very order passed on the basis of his own request. The appellant, having consciously elected not to invite an adjudication on the merits of the writ petition and having accepted the liberty granted by the learned Single Judge, cannot now seek to assail the said order in an intra-court appeal.

8. In view of the nature of the impugned order, since the appellant did not press the writ petition before the learned Writ Court, he consciously relinquished his right to challenge



the order of termination adjudicated in the writ proceedings. Significantly, while preferring the present intra-court appeal, the appellant has not offered any plausible explanation as to why the writ petition was not pressed before the learned Single Judge. It is also not a case where the appellant had approached an incorrect forum and withdrew the writ petition to pursue an appropriate statutory or alternative remedy. Rather, the present appeal seeks to question an order passed entirely on the appellant's own request.

9. In such circumstances, the appellant cannot be permitted to challenge the very order which embodies the relief sought by him before the learned Single Judge. Entertaining the present appeal would amount to permitting the appellant to approbate and reprobate, a course impermissible in law.

10. In view of the foregoing discussion and the findings recorded on the issues hereinabove, this Court is of the view that the impugned judgment and order passed by the learned Single Judge does not warrant any interference in exercise of the *intra* court appellate jurisdiction.

11. Accordingly, the present *intra court* appeal stands dismissed.

12. It is, however, clarified that the appellant shall be



at liberty to avail such other remedy as may be available to him in law for redressal of his grievances, in terms of the liberty granted by the learned Single Judge. If so advised, the appellant may submit a representation before the competent authority, which shall be considered in accordance with law.

13. Pending application(s), if any, shall also stand disposed of.

(Sudhir Singh, J.)

(Ranjan Kumar Jha, J.)

sujit/-

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