

(2019) 04 PAT CK 0052

In the Patna High Court

Case No : Civil Writ Jurisdiction Case No 12641 Of 2014

Chandrajeet Kumar

APPELLANT

Vs

State Of Bihar Through The Principal Secretary And Ors

RESPONDENT

Date of Decision : 29-04-2019

Acts Referred:

Citation : (2019) 2 PLJR 999

Hon'ble Judges : Madhuresh Prasad, J

Bench : Single Bench

Advocate : Lakmesh Marvind, Rajesh Kr Singh, Lakmesh Kr, Harish Kumar

Final Decision : Allowed

Judgement

1. Heard learned counsel for the petitioner and the respondent-State.

2 Petitioner was appointed as Block Community Mobilizer (for brevity, BCM) on a contractual basis. The period of contract was 04.09.2010 to

03.09.2013. While discharging his function, allegations were levelled against him by Asha Facilitators. On the basis of such allegations, the petitioner

was directed to file a show cause. A very detailed and elaborate show cause has been filed by the petitioner dealing with all the points. The same is

Annexure 5 to the writ petition. Without considering the point wise response of the petitioner, Collector, Gaya, under order dated 29.05.2013, has

issued an order terminating the petitioner's contractual engagement in purported exercise of power under Clause 10f of the contract of engagement.

3 Learned counsel for the petitioner submits that bona fide exercise of power in view of the provisions contained in Clause 10f of the contract,

simplicitor would not have left the petitioner with any remedy in the instant proceedings. However, termination of the petitioner is on basis of

allegations.

4 He has drawn attention of the Court towards the order passed by the Collector, Gaya and submitted that since the order suffers from non-

consideration of various pleas taken by the petitioner in response to the seven issues on which show cause was issued by the District Magistrate on

03.05.2013, the order is unsustainable in law. He submits that, apart from terminating the petitioner's contractual engagement, the order of the

Collector dated 29.05.2013 also casts a stigma on the petitioner. Therefor, the same, being violative of principles of natural justice, to that extent, is

unsustainable. He places reliance on decision of this Court in the case of Praveen Kumar -Versus- State of Bihar & Others reported in 2012 (2)

PLJR 62.

5 It is axiomatic that such stigmatic order cannot be passed unless there is compliance of principles of natural justice. Non-consideration of the issues

raised by the petitioner is violation of principles of natural justice. It cannot be justified, merely for the fact that the petitioner was a contractual

appointee under the contract. The Collector would have been right if he had resorted to the exercise of power under Clause 10f of the agreement on

account of an assessment of his services being unsatisfactory or not in the interest of the Society. However, since the same is based on certain

allegations then the findings are unsustainable on account of the same being without any consideration and without assigning any reason in support for

rejection of the various plea raised by the petitioner in his elaborate and detailed response to the show cause, i e, Annexure 5 of the writ petition dated

03.05.2013.

6 For the reasons indicated hereinabove, this Court would observe that no stigma can be attached to the petitioner on account of his disengagement

under the order of the District Magistrate, Gaya dated 29.05.2013. If the scheme is being continued then the petitioner, without being made to suffer

any disqualification on account of the order of the Collector 29.05.2013 and the appellate order dated 28.03.2014, would be entitled to consideration of

his case for renewal of the agreement maintaining parity with others.

7 Writ petition is allowed to the extent indicated herein above.