

(2020) 09 PAT CK 0003

In the Patna High Court

Case No : Civil Writ Jurisdiction Case No. 6196 Of 2020

Dr. Anand Kumar Jha And Anr

APPELLANT

Vs

State Of Bihar And Ors

RESPONDENT

Date of Decision : 01-09-2020

Acts Referred:

Citation : (2020) 09 PAT CK 0003

Hon'ble Judges : Vikash Jain, J

Bench : Single Bench

Advocate : Ravindra Kumar, K.K.Sinha, Shama Sinha

Final Decision : Disposed Of

Judgement

1. This matter has been taken up for hearing through video conference. Learned counsel for the petitioners undertakes that all defects pointed out by the stamp reporter shall be removed, and compliance with the conditions of the notices of this Court with regard to acceptance of e-filing shall be made, without delay immediately after the lockdown ends, and in any event within one month thereof. Learned counsel for the respondents states that they have no objection in this regard and the matter be taken up on merits in view of the stated urgency.

2. The following reliefs as formulated by the petitioners have been claimed in the writ petition --

"i) For issuance of writ of certiorari for setting aside/quashing Annexure-7 by which the Joint Secretary has issued a show cause for terminating the services of the petitioners with immediate effect and recovery of the amount paid for working on the post by getting themselves transferred illegally;

ii) For issuance of a writ of mandamus directing the respondents not to give effect to the memo no. 256(2) dated 25.02.2020 (Annexure-5) by which direction has been issued for terminating the services of the petitioners and other similarly placed dental doctors and allow to work till regular appointment is

made on the post;

iii) For issuance of other appropriate writ/ writs, direction/directions, order/orders, direction/directions for which the petitioners are entitled in the facts and circumstances of the present case."

3. Learned counsel for the petitioners states that the petitioners are Dental Surgeons. Their services were taken on contract basis by memo no. 973 dated 17.06.2010 by the District Health Society, Madhubani and they were posted at Primary Health Centre, Lakhnaur and Primary Health Centre, Kaluhahi respectively, in the District of Madhubani. They were discharging their duties satisfactorily. They were transferred to Sub-divisional Hospital, Jhanjharpur and Primary Health Centre, Khajauli, where they were discharging their duties. Thereafter, regular appointment of Dental Surgeons was made through advertisement. After such appointment of Dental Doctors, the petitioners were again transferred on other vacant posts to Primary Health Centre, Andhrathadi, Madhubani and Primary Health Centre, Rahika, Madhubani respectively, where they are discharging their duties. A show cause has been issued to all the Health Institute Incharge /Deputy Superintendent/Superintendent and Civil Surgeon by the Joint Secretary, Government of Bihar for negligence and irregularity in not stopping the services of Dental Doctors appointed on contract, which was to end automatically upon appointment of regular Dental Doctors.

4. Learned counsel for the petitioners submits that action is being taken for termination of their services and also for recovery of the amount paid to them for working on the posts by getting themselves transferred illegally. The petitioners duly filed their show cause replies on 12.05.2020 and 13.05.2020 respectively, and pending final decision, the petitioners are still rendering services on vacant posts. It is further stated that the petitioner no. 1 has not been paid since December for services rendered and for which he has also approached the respondent authorities, but to no avail.

5. Learned counsel for the State as well as for the State Health Society appear and have been heard.

6. Having heard the parties and on consideration of the materials on record, this Court is of the view that the writ petition is somewhat premature. It is an admitted fact on record that the petitioners have duly filed their show cause replies but no final orders appears to have been passed. In such circumstances, this Court is not inclined to enter upon the merits of the contention of the petitioners.

7. In the above circumstances, the writ petition is disposed of with the observation that the concerned respondent authority shall pass orders after taking into consideration of the show cause replies filed by the petitioners. In the meantime, it is directed that no recovery shall be made from the petitioners until such final orders are passed.

8. Office shall ensure that all defects have been removed and compliance with the notices of this Court has been made, within the stipulated time as provided in para 1 hereinabove.