

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17284 of 2023

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Kanchan Kumar S/o Ram Badan Singh, R/o Village-Muradpur Hujra,
Baidrabad, P.S.-Arwal, Dist-Arwal (Bihar).

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary Govt. of Bihar, Patna.
2. The Principal Secretary Dept. of Urban and Housing Development, Govt. of Bihar, Patna.
3. The District Magistrate, Arwal.
4. The Additional Magistrate, Arwal.
5. The Circle Officer, Arwal, Dist-Arwal.
6. The Chairperson Nagar Parishad, Arwal.
7. The Executive Officer, Nagar Parishad, Arwal.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Rajkumar Rajesh
For the Respondent/s	:	Mr.Abbas Haider (Sc 6)
For the Resp. No. 7	:	Mr. Shyam Kishore, Adv.

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CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
ORAL ORDER

2 30-08-2025 Heard the learned counsel for the petitioner, learned

counsel for the State and learned counsel for the Nagar

Parishad, Arwal.

2. By way of this writ application, the petitioner has

prayed for the following reliefs:-

*(i). For that through an appropriate writ
in the nature of certiorari to quash the Letter dated
- 28.7.2023 vide memo no.- 1037 issued under the
signature of Respondent no - 7, (As contained in
Annexure 9 of this instant petition), whereby and
whereunder, the petitioner has been removed from
the post of Amin, in malafide, Arbitrary and
whimsical manner, without giving an opportunity
of hearing, as against the doctrine of Audi Alteram*



Partem, is not sustainable in accordance of law.

(ii). For that further direction may be given, to reinstate the petitioner on aforesaid post with all consequential benefits, for which he is entitled in accordance of law.

(iii). For that further direction may be given, to conduct an independent inquiry, against the Respondent, so concerned who has utilized the public institution as his pocket institution, for taking action against petitioner by way of violating the procedure prescribed by the law, is affecting the administration of justice and Rule of law.

(iv). For that the Reasonable compensation and litigation cost, may be awarded to the petitioner as against the illegality taken by Respondents by which the petitioner was deprived of his livelihood, is not acceptable in the eye of law.

3. At the very outset, learned counsel for the petitioner has submitted that the impugned order dated 28.07.2023 is a cryptic order and the same has been passed without issuing any show cause notice to the petitioner.

4. Learned counsel for the Nagar Parishad has supported the order and has tried to take this Court to the counter affidavit filed by the Nagar Parishad, Arwal.

5. In the opinion of this Court, a cryptic order, bereft of any reasons cannot find support from the counter affidavit and the same has been held in Paragraph 8 by the Hon'ble Supreme Court in the case of Mohinder Singh Gill Vs. Chief Election Commissioner reported in (1978) 1 SCC 405 which



reads as under:-

8. The second equally relevant matter is that when a statutory functionary makes an order based on certain grounds, its validity must be judged by the reasons so mentioned and cannot be supplemented by fresh reasons in the shape of affidavit or otherwise. Otherwise, an order bad in the beginning may, by the time it comes to court on account of a challenge, get validated by additional grounds later brought out. We may here draw attention to the observations of Bose, J. in Gordhandas Bhanji [Commr. of Police, Bombay v. Gordhandas Bhanji, 1951 SCC 1088 : AIR 1952 SC 16] :

“Public orders, publicly made, in exercise of a statutory authority cannot be construed in the light of explanations subsequently given by the officer making the order of what he meant, or of what was in his mind, or what he intended to do. Public orders made by public authorities are meant to have public effect and are intended to affect the actings and conduct of those to whom they are addressed and must be construed objectively with reference to the language used in the order itself.”

Orders are not like old wine becoming better as they grow older.

A caveat

6. In view of the aforesaid, the impugned order dated 28.7.2023 cannot be sustained and the same is hereby quashed.

7. The petitioner shall be allowed to join his post forthwith and the petitioner shall also be entitled to all back wages i.e. for the period for which he was terminated from his



service as the impugned order has been found to be illegal and
the same is quashed by this Court.

(Sandeep Kumar, J)

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