

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7353 of 2014

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1. Smt. Sanju Kumari Wife of Subalal Ram Resident of Village - Chitwara
Mubarakpur, P.S. AND District -Sheikhpura.

.... Petitioner/s

Versus

1. The State of Bihar.
2. The District Magistrate, Sheikhpura.
3. The District Programme Officer, Sheikhpura.
4. The Child Development Project Officer, Sheikhpura.
5. The Divisional Commissioner, Munger.
6. The Director, ICDS, Directorate Social Welfare Department, Govt. of Bihar,
Patna.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Sanjay Kumar Pandey

For the Respondent/s : Mr. Kamlesh Kishore, AC to GP-2.

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA
ORAL JUDGMENT

Date: 16-01-2015

Heard the parties.

This is, in fact, a second round of litigation before this Court at the behest of the petitioner.

Indisputably, the petitioner was selected/ appointed on the post of Aganwari Sevika of Aganwari Centre- Chitaura Mubarakpur in the district of Sheikhpura. However, on the ground of certain charges of irregularities against the petitioner, her selection was cancelled by order dated 30.05.2008 (Annexure-1) passed by the respondent District Magistrate, Sheikhpura. The petitioner, being aggrieved by the aforesaid order, approached this Court in C.W.J.C. No. 5403 of 2009. The aforesaid writ petition was finally allowed by a Bench of this Court by order dated 22.10.2013 (Annexure-6) and the matter was remitted back to the respondent District Magistrate, Sheikhpura for passing a fresh order after giving an opportunity of hearing to the petitioner.

Admittedly, before the order of cancellation of



selection of the petitioner by order dated 30.05.2008 (Annexure-1) opportunity of hearing was not given to the petitioner and so the matter was remitted back. In view of the aforesaid remand order made by this Court, now, the respondent District Magistrate, Sheikhpura, after hearing the parties and considering the entire materials, has passed the fresh order and has finally rejected the claim of the petitioner by the impugned order dated 24.02.2014 passed in Miscellaneous Case No. 30 of 2013 (Annexure-7); and has thereby affirmed the order of cancellation of selection of the petitioner on the post of Aganwari Sevika. In the impugned order dated 24.02.2014, the respondent District Magistrate has recorded findings regarding various irregularities committed by the petitioner while she was running the Aganwari Centre in question.

It is well settled that the appointment/ engagement on the post of Aganwari Sevika or Sahayika is made under the scheme of the Central Government and they do not hold civil post. In view of the law laid down by the Hon'ble Apex Court, they do not have the protection of Article 311 of the Constitution of India.

In view of the aforesaid settled legal position as also in view of the findings recorded by the respondent District Magistrate, Sheikhpura, on remand being made by this Court, I am not inclined to interfere with the impugned order dated 24.02.2014 (Annexure-7). Apparently, since the year 2008 when the selection of the petitioner on the post of Aganwari Sevika was cancelled, there is no regular Aganwari Sevika for the Aganwari Centre in question and the petitioner is out of her engagement for more than six years. In above view of the matter, this is a hightime that the District Programme Officer, Sheikhpura as also the respondent Child Development Project Officer, Sheikhpura should act

promptly and should initiate the selection process for making fresh selection/ appointment on the post of Aganwari Sevika for the Aganwari centre in question.

However, it is directed that, if the petitioner otherwise fulfils other conditions for her selection on the post of Aganwari Sevika, then she shall also be allowed to participate in the aforesaid selection process and her claim as also the claim of the other candidates shall be considered in accordance with the existing guidelines issued by the State Government.

The writ petition stands finally disposed of with the observations and directions made above.

(Birendra Prasad Verma, J)

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