

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7043 of 2014

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Kosum Devi, Wife of Vijay Prasad, Resident of Vilalge- Koniypar, Post-Korama, Police Station- Hilsa in The District of Nalanda

.... Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Social Welfare Department, Government of Bihar, Patna
2. The Director, I.C.D.S., Social Welfare Department, Indira Bhawan, Baily Road, Patna
3. The Commissioner, Patna Division, Patna
4. The District Magistrate-Cum-Collector, Nalanda
5. The District Programme officer, Nalanda
6. The Child Development Project officer, Hilsa in the District of Nalanda
7. Sabita Kumari, Wife of Mahanand Prasad, Resident of Village-Koniypar, Post- Korama, Police Station- Hilsa, Dist.- Nalanda

.... Respondents

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Appearance :

For the Petitioner : Mr. Sunil Kumar
For the Respondent nos.1to6: Mr. Md.Nadim Seraj, GP-20
Mr.Dhurendra Kumar, AC to GP-20

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA
ORAL ORDER

2 08-01-2015 The petitioner is aggrieved by the order dated 15.12.2011 (Annexure-3) passed by the respondent District Programme Officer, Nalanda, whereby the selection of the petitioner on the post of Anganwari Sahayika has been cancelled on the ground that the Anganwari Centre was found closed and she was absent from there. The impugned original order dated 15.12.2011 (Annexure-3) was affirmed by the respondent District Magistrate, Nalanda by the order dated 04.09.2012 (Annexure-2) and the said order has further been affirmed by the respondent Divisional Commissioner, Patna by the order dated 20.12.2013/13.01.2014 (Annexure-1) passed in Misc.Appeal No.526 of 2012.

Apparently, the petitioner was engaged on the post of

Anganwari Sahayika under a scheme. It is well settled that the petitioner does not hold a civil post and in view of a decision of the Hon'ble Apex Court, she does not have the protection of Article 311 of the Constitution of India. She was only an agent of the Government and was entitled for certain honorarium. Her selection has been cancelled for non-performance of duty.

This Court further finds that, after cancellation of selection of the petitioner as far back as on 15.12.2011 (Annexure-3), now a fresh selection on the said post has already been made and the respondent no.7 has been engaged/appointed on the post of Anganwari Sahayika for the Anganwari Centre in question. The fresh selection of the respondent no.7 is not under challenge. Against one single post of Anganwari Sahayika two persons cannot be directed to be appointed/engaged.

In the aforesaid circumstances, no relief can be granted to the petitioner in the present proceeding as the post has already been filled up by the respondent no.7.

In the result, the writ petition has to fail and is, accordingly, dismissed, but without costs.

(Birendra Prasad Verma, J)

Arvind/-

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