

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.7302 of 2014

With

Interlocutory Application No. 5322 of 2014

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Sanju Devi, Wife of Rajendra Prasad Singh, Resident of Village- Navratanpur, 29,
P.S. Kankarbag in the district of Patna

.... Petitioner/s

Versus

1. The State of Bihar through its Principal Secretary, Welfare Department, Govt. of Bihar
2. The Divisional Commissioner, Patna Division, Patna
3. The Director, Integrated Child Development Service (I.C.D.S.), Govt. of Bihar, Patna.
4. The District Magistrate, Patna
5. The District Programme Officer, Patna
6. The Child Development Project Officer, Patna Sadar, Patna

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Sanjeev Kumar

For the Respondent/s : Mr. Krishna Kumar, AC to GP-26

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA

ORAL JUDGMENT

Date: 15-01-2015

Heard the parties.

The petitioner is aggrieved by the part of the order dated 05.11.2012 (Annexure-3) passed in Case No. 271 of 2012 by the respondent District Programme Officer, Patna, whereby selection of the petitioner on the post of Aganwari Sevika of Aganwari Centre, Changar, Chamartoli, Code No. 107, has been cancelled.

The appeal preferred by the petitioner against the aforesaid order dated 05.11.2012 was rejected by the order dated 10.05.2013 (Annexure-4) by the respondent District Magistrate, Patna, and Miscellaneous Appeal No. 424 of 2013 filed on behalf of the petitioner has also been dismissed by the respondent Divisional Commissioner, Patna, by the order dated 13.11.2013/ 13.01.2014 (Annexure-5), whereby the original orders passed by the respondent

District Programme Officer and the appellate order passed by the respondent District Magistrate, Patna have been affirmed.

Learned counsel appearing on behalf of the petitioner submits that on the basis of frivolous and unfounded charge, the petitioner has been visited with an extreme penalty of cancellation of her selection from the post of Anganwari Sevika. It is pointed out that the show cause filed by the petitioner has not been considered at all while passing the impugned order dated 05.11.2012.

Learned counsel appearing on behalf of the State has opposed the prayer and has supported the impugned order by referring to the averments made in the counter-affidavit filed on behalf of the respondent no. 4 to 6.

After having heard the parties and on consideration of the materials available on record, this Court is satisfied that the impugned original order passed by the respondent District Programme Officer, Patna cannot be sustained in law. The order of extreme Penalty of cancellation of selection of the petitioner from the post of Anganwari Sevika is a cryptic and non-speaking one and has been passed without taking into consideration the show cause filed on her behalf. This Court is of the opinion that the matter requires reconsideration and fresh decision by the original authority strictly in accordance with the rule and existing guidelines issued by the State Government.

For the reasons recorded above, the impugned original order dated 05.11.2014 (Annexure-3) so far the Anganwari centre in question alone is concerned, is set aside and quashed. Consequently, the order dated 10.05.2013 (Annexure-4) passed by the respondent District Magistrate, Patna and the order dated 13.11.2013/13.01.2014 passed by the respondent Divisional Commissioner, Patna, are also hereby set aside and quashed and the matter is remitted back to the respondent

District Programme Officer, Patna with a direction to pass a fresh order in accordance with law after giving an opportunity of hearing to the petitioner. However, by virtue of this order the petitioner shall not be reinstated on the post of Aganwari Sevika, but the reinstatement of the petitioner and consequential benefits shall abide by the fresh order passed by the respondent District Programme Officer, Patna.

Till the matter is finally decided by the respondent District Programme Officer, Patna, fresh selection process so started with respect to Aganwari centre in question shall be kept in abeyance.

The writ petition stands allowed to the extent indicated above. I.A. No. 5322 of 2014 also stands accordingly disposed of.

(Birendra Prasad Verma, J)

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