

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1035 of 2015

In

Civil Writ Jurisdiction Case No. 3262 of 2014

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Prem Lata Devi, wife of Ram Ayodhya Singh, resident of Village - Pipra,
P.S. - Kudra, District - Kaimur at Bhabua.

.... Appellant

Versus

1. The State of Bihar through I.C.D.S. Bihar, Patna.
2. The Divisional Commissioner, Patna.
3. The District Magistrate, Kaimur at Bhabua.
4. The District Programme Officer, Kaimur at Bhabua.
5. The Child Development Project Officer, Kudra, Kaimur .

.... Respondents

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Appearance :

For the Appellant/s : Mr. Dr. Kislay, Advocate
For the Respondent/s : Mr. K.P.Yadav, G.P. 11 with Mr. Kritya
Nand Jha, AC to G.P. 11

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**CORAM: HONOURABLE MR. JUSTICE RAMESH KUMAR
DATTA**

and

HONOURABLE MR. JUSTICE BIRENDRA KUMAR

ORAL ORDER

(Per: HONOURABLE MR. JUSTICE RAMESH KUMAR DATTA)

5 23-11-2016 I.A.No. 4306 of 2015

The interlocutory application has been filed for
condonation of the day of 20 days in filing the appeal.

On a consideration of the facts and circumstances
mentioned in the application and upon hearing learned counsels
for the appellant and for the State, the delay in filing the appeal is
condoned.

I.A.No.4306 of 2015 is, accordingly, disposed of.

Heard learned counsel for the appellant and learned
Government Pleader No.11 for the State.

The appeal is directed against the order dated 15.7.2014
passed in CWJC No. 3262 of 2014 by a learned Single Judge of



this Court by which the writ application has been dismissed in view of the concurrent findings of fact recorded by the two authorities below with respect to the irregularities committed by the appellant holding that this Court does not find any good ground to interfere with the orders impugned removing her from the post of Anganbari Sevika.

Learned Single Judge also noted the fact that before passing the original order the appellant was given full opportunity of hearing and only thereafter by recording good reasons her selection was cancelled.

The petitioner-appellant was working as Anganbari Sevika for Pipra Centre No.67 (Kudra) since the year 2002. It appears from the materials on record that the appellant and the Anganwari Sahayika posted at the Anganwari Centre were at loggerheads. It is alleged that on the complaint of the appellant Anganwari Sevika earlier, the authorities did not look into the matter. Thereafter the writ petitioner-appellant filed a complaint on 6.9.2011 against the Sahayika alleging that she was not working properly upon which the Child Development Project Officer, Kudra, Kaimur inspected the Anganwari Centre on 7.9.2011 and filed his report on 17.9.2011 before the District Programme Officer, Kaimur, Bhabua stating that on the basis of the complaint filed by the appellant he had made inspection of the Centre on 7.9.2011 at 10.30 A.M. during which it was found that the said Sahayika and the appellant were present and they were quarreling with each other. The appellant was alleging that the Sahayika was not preparing the meals, whereas the Sahayika was alleging that the Sevika was not giving the grains for the cooking of the meals. The Sevika showed the attendance register of the



children and her own attendance register but on being asked she could not show any other register. It was also noted by the CDPO that on the said date the meals had not been cooked at the centre. He also reported that all his efforts to make the Sevika and Sahayika understand were unsuccessful. Again on 19.9.2011 the CDPO made an inspection of the said Anganwari Centre at 10.30 A.M. and it was found during the course of inspection that the Sevika and Sahayika were present and there were ten children present there and meals had not been cooked and the Sevika and Sahayika were found quarreling with each other. Then he called the beneficiaries of the Centre and the parents of the children present there had stated that for nearly 6 to 7 months the food was not being cooked at the Centre. The CDPO took the statement of as many as 25 beneficiaries: some of the beneficiaries stated that T.H.R. (Take Home Ration) was being received, whereas others stated that the T.H.R. was not received. Accordingly, the CDPO reported that the meal centre was not being run in a proper manner and recommended the cancellation of the selection of both the Sevika and Sahayika. Thereafter by the order dated 31.1.2012 the District Programme Officer after hearing the appellant and the Sahayika cancelled the selection of both the Sevika and Sahayika. Against the said order the appellant filed Misc. Appeal No. 342 of 2012 before the Divisional Commissioner, Patna, which was also rejected by the order dated 8.8.2013/30.10.2013 passed by the Commissioner, Patna Division, Patna finding no reason to interfere with the order of cancellation of her selection. The writ application filed by the petitioner-appellant against the said order has been dismissed by the impugned order dated 15.7.2014.

Learned counsel for the appellant has sought to assail the



impugned order stating that the appellant could not have been removed from the post of Anganwari Sevika as on the basis of her complaint the entire matter has been inspected and she has become the victim of her complaint, whereas the Centre was not being run properly on account of the activities of the Anganwari Sahayika.

It is also submitted by learned counsel that the appeal of the writ petitioner-appellant has been rejected by the Divisional Commissioner but the appeal of the Anganwari Sahayika has been allowed.

From the perusal of the records, however, it appears that the appeal of the Sahayika was transferred to the Deputy Director, Welfare, Patna Division, Patna, who has allowed the same.

On a perusal of the order of the learned Single Judge this Court finds that in the said order there is clear consideration of the fact that the writ petitioner-appellant had been given full opportunity of hearing by the District Programme Officer before the impugned order had been passed by him and it had further been noted that the findings of the two authorities were concurrent findings of fact recorded by them, which had been challenged by the petitioner. That being the position, the proceedings under Article 226 of the Constitution, being in the nature of judicial review of administrative action, it could not be said that there was no ground for passing the said orders.

We have also perused the orders of the District Programme Officer and the Commissioner, Patna Division and we find that they had taken into account the relevant materials, particularly the report of the CDPO, which clearly goes to show that the Anganwari Centre was in a state of shambles for which



evidently the major responsibility would be of the writ petitioner-appellant as the Anganwari Sevika. Thus the contention of learned counsel for the appellant that the appeal of the Anganwari Sahayika has been allowed could be of no relevance for the present matter, whereas the orders of the appellate authority and the order of District Programme Officer are in accordance with law and no reason has been shown for interfering with the same or with the order of the learned Single Judge.

The appeal is, accordingly, dismissed.

(Ramesh Kumar Datta, J)

spal/-

(Birendra Kumar, J)

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