

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No 419 of 2014

IN

Civil Writ Jurisdiction Case No 1148 of 2014

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1. Kumari Hemlata W/O Abhay Shankar Singh Resident Of Village Chilmania Road, New Chandmari, Police Station- Motihari Town, District- East Champaran.
 2. Savitri Devi W/O Raju Prasad Resident Of Village New Chandmari, Police Station- Motihari Town, District- East Champaran.
 3. Indu Kumari W/O Diwakar Tripathi Resident Of Village New Chandmari Near Durga Mandir, Police Station- Motihari Town, District- East Champaran.
 4. Kaushalya Devi W/O Bhuneshwar Prasad Resident Of Village New Chandmari Near Bimla Sadan, Police Station- Motihari Town, District- East Champaran.

.... Appellant/s

Versus

1. The State Of Bihar through Secretary Department of Social Welfare, Govt. Of Bihar, Patna.
2. Director, I.C.D.S., Govt. Of Bihar, Patna.
3. District Programme Officer, Motihari, East Champaran.
4. Child Development Project Officer, Motihari Sadar, East Champaran.

.... Respondent/s

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Appearance :

For the Appellant/s : Mr Manoj Kumar Singh, Advocate

For the State : Mr Satyendra Rai, AC to SC 30

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CORAM: HON'BLE MR JUSTICE NAVANITI PRASAD SINGH

And

HON'BLE JUSTICE SMT NILU AGRAWAL

ORAL JUDGMENT

(Per: HONOURABLE MR JUSTICE NAVANITI PRASAD SINGH)

Date: 30-01-2016

A counter affidavit has been filed by the State and, with consent of parties, this appeal has been heard for its final disposal at this stage itself.

2 The appellants, who were writ petitioners, are aggrieved by the order of the learned Single Judge dated 11.02.2014

passed in CWJC No 1148 of 2014 by which the learned Single Judge has declined to interfere in the matter, directing the petitioners to go in appeal before the Authority (Director) within the time, as noted in the order impugned itself.

3 Having considered the matter, in our view, the learned Single Judge was clearly in error in directing the writ petitioners/appellants to prefer appeal against the order of cancelling their engagement as Angan Bari Sevikas and Sahayikas, for the order was clearly in violation of principles of natural justice and, as has been held by the Apex Court in the case of *M/s Baburam Prakash Chandra Maheshwari –Versus- Antanim Zila Parishad now Zila Parishad, Muzaffarnagar* since reported in *AIR 1969 Supreme Court 556*, one of the settled exceptions of alternative remedy is violation of principles of natural justice where a person can legitimately file a writ petition directly. Having said so, we would also examine the matter on merit now.

4 It appears that on or about 04.07.2013, a State Level Team made an inspection of the Angan Bari Centers in relation to the writ petitioners/appellants. There were similar inspections at other Centers as well. A report, adverse to the writ petitioners/appellants, in different aspects, was submitted to the Director, Integrated Child Development Services (for brevity, *ICDS*), Government of Bihar,



Patna who is the nodal officer for the State. In the writ petition, it is clearly stated, and, now in the counter affidavit, it has been admitted by the State that pursuant to the report, the Director, ICDS wrote to the District Programme Officer (for brevity, *DPO*), East Champaran to take action, inter alia, against the writ petitioners/appellants, clearly mentioning that their selection be cancelled. This is Annexure 2 to the writ petition and is dated 24.07.2013. This is also appended as Annexure A to the counter affidavit. It is pursuant to this direction of the Director, ICDS, that the DPO then issued a show cause notice, which was an empty formality, and, thereafter, cancelled the engagement of the writ petitioners/appellants.

5 The facts aforesaid would clearly show two things. First, there was a direction from the Director, ICDS to cancel the engagement of the writ petitioners/appellants. The DPO, being a subordinate officer, had no option in the matter and whether he found explanation satisfactory or not, he had to cancel the engagements. This is total violation of Article 14 of the Constitution and the basic principles of natural justice.

6 The second, if there had to be an appeal, the appeal would be to the Director, ICDS himself, who had already foreclosed the issue. Again, it would be clearly violative of Article 14 of the Constitution and principles of natural justice.

7 Thus, for the reasons aforesaid, we cannot sustain the impugned order of cancellation, as passed by the DPO, East Champaran at Motihari in respect of the four petitioners/appellants. The orders are, thus, set aside.

8 We may notice that we are fortified by orders of this Court passed in *CWJC No 15516 of 2011* disposed of on 23.09.2013 (*Suman Kumari –Versus- State of Bihar & Others*) as well as judgment and order dated 20.04.2012 passed in *CWJC No 2905 of 2012 (Manjula Kumari & Another –Versus- State of Bihar & Others)* and analogous cases.

9 In the result, this appeal is allowed. The order of the learned Single Judge is set aside and the writ petition is allowed. The order of the DPO, East Champaran at Motihari cancelling the engagement of the writ petitioners/appellants as Angan Bari Sevikas and Sahayikas are set aside. They would be reinstated accordingly.

(Navaniti Prasad Singh, J)

(Nilu Agrawal, J)

M.E.H./-

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