

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.397 of 2014

Arising out of

Civil Writ Jurisdiction Case No. 20268 of 2012

Babita Kumari Wife Of Kishor Kumar Resident Of Mohalla - Purbi Anwarpur,
P.S. Hajipur Town, Centre No.41 (Hajipur Sadar), District - Vaishali

.... Appellant/s

Versus

1. The State Of Bihar, through The Principal Secretary, Department Of Social And Welfare, Govt. Of Bihar, Patna
2. The Director, I.C.D.S. Govt. Of Bihar, Patna
3. The Commissioner, Tirhut Division, Muzaffarpur
4. The District Magistrate (Collector), Vaishali At Hajipur
5. The District Programme Officer, Vaishali At Hajipur
6. The Child Development Project Officer, Hajipur Sadar, District - Vaishali At Hajipur

.... Respondent/s

Appearance :

For the Appellant/s : Mr. N. K. Agarwal, Advocate

For the Respondent/s : Mr. Md. Khurshid Alam, AAG 12
Mr. Arun Bhagat, AC to AAG 12

CORAM: HONOURABLE MR. JUSTICE HEMANT GUPTA

and

HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH)

Date: 26-07-2016

Heard learned counsel for the parties.

2. The present intra-court appeal under Clause X of the Letters Patent of Patna High Court is to the order dated 23.01.2014 passed by the learned Single Bench by which C.W.J.C. No. 20268 of 2012 filed by the appellant, challenging the order dated 10.09.2012 passed by the Commissioner, Tirhut Division, Muzaffarpur refusing to interfere in the order dated 24.07.2012 passed in the appeal by the Collector, Vaishali upholding the order passed by the District

Programme Officer, Viashali dated 05.03.2012 cancelling the selection of the appellant as *Anganbadi Sevika*, has been dismissed.

3. The appellant was selected as *Anganbadi Sevika* for Centre No. 41 located at Station Chowk, Sadar, Hajipur. In a surprise visit made by the Child Development Project Officer (CDPO) on 24.09.2011 it was found that only 10 children were present out of which only 4 were in uniform. It was further found that no social audit was done and there was no board, recipe, chart, poster, list of beneficiaries etc. displayed at the Centre. It was also found that the general cleanliness and hygiene was in bad condition. It was further noticed that there was no activity with regard to *Bachpan Divas* and also that earlier instructions were not being complied with by the *Sevika*. The Centre was again inspected on 30.09.2011 when the *Sevika* was present with only 7 children whereas on 07.10.2011, upon inspection, it was found that the Centre was closed. For such lapses, a show cause dated 28.11.2011 was issued to which the appellant submitted a reply. Pursuant to the same, the District Programme Officer, Vaishali under Memo No. 1747 dated 28.11.2011 called upon the appellant to be present on 02.12.2011 with ration procurement register, ration distribution and stock register, take home ration distribution register and inspection register, in view of irregularities found during enquiry at her Centre. Upon verifying



from the said documents, in view of the report of the enquiry/inspection, a show cause was issued to the appellant under Memo No. 327 dated 22.02.2012 stating the irregularities found, that is, only 6 children being present at the Centre on 24.09.2011, only 7 children being present on 30.09.2011, the absence of the appellant from the Centre without leave and the Centre being closed on 07.10.2011 and she was asked to appear on 29.02.2012 along with ration procurement register, ration distribution and stock register, take home ration distribution register, inspection register and social audit register. The appellant gave her reply and after hearing her, the District Programme Officer cancelled the selection of the appellant in terms of provision of paragraph 10 (v) of Letter No. 2862 dated 04.11.2011 and tagged the Centre of the appellant to the nearest Centre and directed for fresh selection of *Anganbadi Sevika* within a month.

4. The appellant preferred appeal before the Collector, Vaishali and the same was dismissed by order dated 24.07.2014. The revision filed by the appellant before the Commissioner, Tirhut Division, Muzaffarpur was also dismissed by order dated 10.09.2012 on the ground that such revision was not maintainable as per the guidelines issued by the State Government. Being aggrieved, the appellant filed C.W.J.C. No. 20268 of 2012 which has been

dismissed by the learned Single Bench by order dated 23.01.2014 giving rise to the present appeal.

5. Learned counsel for the appellant submits that the District Programme Officer has not considered the show cause of the appellant and the same has also not been done by the District Magistrate in the appeal. It is further submitted that there was no inspection done as the inspection register has not been signed.

6. Learned counsel for the State submits that the *Anganbadi* Centre runs for the sole purpose of ensuring that children from underprivileged and weaker sections of the society are fed and also get basic education, but the allegations against the appellant clearly indicate that the said purpose was not being fulfilled and rather there was glaring breach on the part of the appellant in the discharge of her duties. It is submitted that the conduct of the appellant is sufficient for her removal as *Angandbadi Sevika* and there is no illegality or arbitrariness in the action taken against her.

7. Having considered the rival contentions, we do not find any merit in the present appeal. The charges against the appellant were very clear as would be apparent from the show cause dated 22.02.2012, which was issued in light of the findings in the enquiry report as well as the relevant documents/registers which were required to be maintained at the Centre. Reply given by the appellant,

copy of which has been brought on record, does not indicate any justification and rather it has been stated that on 24.09.2011 at the time of inspection, the children were still coming and on 07.10.2011, she herself had gone to call the children and during that time the inspection was held. It was further stated by the appellant that on 30.09.2011 she had become ill due to being drenched by rain. We find that such explanation is vague and evasive and does not inspire confidence. The spirit and object of running *Anganbadi* Centres cannot be overemphasized and the purpose is to ensure the welfare of children from the lowermost and deprived strata of society. Any lapse in execution of the said scheme has to be taken very seriously. Closure of even one day entails the beneficiaries going without their meals, which cannot be overlooked. Thus, we do not find any infirmity in the decision of the authorities cancelling her selection as well as the procedure adopted by them prior to passing such order.

8. For the reasons aforesaid, the Letters Patent Appeal, being devoid of merit, stands dismissed.

(Hemant Gupta, J)

(Ahsanuddin Amanullah, J)

Anjani/-

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