

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.765 of 2014

Arising out of

Civil Writ Jurisdiction Case No. 14414 of 2012

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Geeta Kumari w/o Nikunj Bihari Jugnu, Resident of Village - Tardih, P.S.
Jagdishpur, District – Bhagalpur.

....Petitioner/s / Appellant/s

Versus

1. The State of Bihar
2. The Principal Secretary, Social Welfare Department, Bihar, Patna.
3. The Director, Integrated Child Development, Bihar, Patna.
4. The District Magistrate, Bhagalpur.
5. The Joint Director, Integrated Child Development Services, Bihar, Patna.
6. The District Programme Officer, Bhagalpur.
7. The Child Development Project Officer, Jagdishpur, District – Bhagalpur.

....Respondent/s Respondent/s

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Appearance :

For the Appellant/s : Mr. Rabindra Kumar Choubey, Advocate.

For the State : Mr. Md. Nasrul Hoda Khan, S.C. 1.

Ms. Babita Kumari, A.C. to S.C. 1.

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CORAM:

HONOURABLE THE ACTING CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH

CAV JUDGMENT

(Per: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH)

Date: 16-11-2016

Heard learned counsel for the parties.

2. The challenge in the present intra-Court appeal is to

the order dated 31.07.2013 by which the learned Single Bench has dismissed C.W.J.C. No. 14414 of 2012 filed by the appellant.

3. The appellant was an *Anganbari Sewika* at Tardih Centre No. 32. On 16.02.2012, the Joint Director, ICDS Directorate, Patna inspected the Centre and found that the menu was changed and the quantity was also less and further that the husband of the appellant had shown belligerence at the Centre before the Inspecting Authority. Pursuant to the show cause served on the appellant and reply submitted by her, the District Programme Officer, Bhagalpur by order dated 08.06.2012 set aside the selection of the appellant. The said order was assailed in C.W.J.C. No. 14414 of 2012 and dismissal of the writ petition by order dated 31.07.2013, has given rise to the present Letters Patent Appeal.

4. Learned counsel for the appellant submitted that the reason for change of menu and lesser quantity has been satisfactorily explained inasmuch as the guardian of the children wanted a different menu, as the original fixed menu was not found to be easily digestible by the children. It was further submitted that the husband of the appellant had come to the Centre upon being telephonically informed by her in order to bring all the registers at the Centre for being shown to the officer, who had come to inspect the Centre. It was further submitted that the cancellation of selection of the appellant was not as



per the direction of the Director, ICDS and, thus, the same is vitiated as the District Programme Officer being a subordinate officer could not have gone against such direction and has not applied his independent mind on the show cause filed by the appellant while passing the order dated 08.06.2012. Learned counsel submitted that the said cancellation of her selection is also bad in view of the decision of a Bench of this Court in the case of **Manjula Kumari Vs. State of Bihar** reported as **2012(4) BBCJ 127**, inasmuch as, there has been violation of the principles of natural justice since copy of inspection report has not been given to her.

5. Learned counsel for the State submitted that the Director, ICDS had only indicated that it was a fit case for removal of the appellant, but had also directed for taking action in accordance with law and the allegations having been found not satisfactorily explained by the appellant, the order for cancelling her selection cannot be faulted.

6. Having considered the rival contentions, we do not find any merit in the present Appeal. The appellant in her show cause has admitted that the menu was different and the amount was also less and there cannot be any justification for the same without prior permission being taken from the Competent Authority. Moreover, she has also admitted that her husband was telephonically called by her



and he brought all the registers, which clearly indicates that the registers were not maintained at the Centre, as was required, which establishes that the Centre was not being run in terms of the required guidelines. The decision of a Bench of this Court in the case of **Manjula Devi** (supra) is of no help to the appellant for the reason that in the present case, the irregularities at the Centre, as found during inspection, were duly communicated to her in the show cause. Moreover, the Director, ICDS had not given any direction for removal of the appellant and had only communicated the view of the inspecting team which had recommended for her removal. This would be clear from the show cause served on the appellant by the District Programme Officer under Memo No. 568 dated 24.05.2012. Further, the Director, ICDS has clearly stated in his communication to the District Programme Officer to take action in accordance with law and had not directed for any specific punishment to be imposed on the appellant. Thus, the order has been passed by the District Programme Officer independently, after applying his mind and considering the show cause reply filed by the appellant. The scheme of Anganbari Centres, meant for the benefit of the weaker sections of the Society and their children, cannot be compromised and the appellant cannot herself take a decision with regard to changing the menu and the quantity of the meal to be supplied, which has been admitted by her in

her show cause reply. Thus, the decision of the authority to cancel her selection cannot be said to be arbitrary. Moreover, the reasoning given by the learned Single Bench that the appellant, not being a Government servant, the requirement of law has been fulfilled as she has been given reasonable opportunity to explain the allegations against her, is also sound.

7. For the reasons aforesaid, we do not find any error in the order passed by the learned Single Bench which may warrant interference in the present Letters Patent Appeal which, accordingly, stands dismissed.

(Ahsanuddin Amanullah, J)

Hemant Gupta, ACJ *I agree*

(Hemant Gupta, ACJ)

P. Kumar

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