

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.9754 of 2015

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1. Sangeeta Kumari W/o Kanhailal Sah Resident of Village- Khartari, Police Station Chiraiya, District East Champaran.

.... Petitioner/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. The Deputy Director, Welfare, Tirhut Division Muzaffarpur.
4. The District Programme Officer, Motihari, East Champaran.
5. The Child Development Project Officer, Keshariya, East Champaran.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Manoj Kumar Singh

For the Respondent/s : Mr. ANIL KUMAR

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CORAM: HONOURABLE MR. JUSTICE SAMARENDRA PRATAP SINGH

ORAL JUDGMENT

Date: 19-01-2016

Heard learned counsel for the petitioner and learned counsel for the State.

The petitioner was working as Aganwari Sevika of the Centre No. 82, Chiraiya Pariyojana, Motihari, East Champaran. It appears that the centre was inspected by the State Level Team on 23.08.2013. On inspection, the petitioner was not found present at the time of inspection. The ICDS Directorate forwarded its report to the District Programme Officer for taking appropriate action in view of the inspection report. Thereafter, the petitioner was show-caused and, her appointment was terminated. The petitioner filed an appeal

which too was rejected. The petitioner submits that the termination order has been passed in the light of suggestion of ICDS Directorate. He submits that the Directorate should not have given any suggestion of its own.

Learned counsel for the State submits that only 11 children were found in the centre in place of minimum of 14 children. He submits that as per 2012 guidelines, it was incumbent for the Sevika and Sahaika to ensure presence of 14 children in the centre. He further submits that instead of doing cooking at the centre, she has been doing cooking at her place which is too wrong and illegal. He submits that the appeal filed by the petitioner too was rejected.

I have heard counsel for the parties. This Court usually would not go into the sufficiency or otherwise of the material on which the employer has passed the termination order. It is equally true that the post of Anganwari Sevika cannot be treated on the same parameter as that of a government servant. Nonetheless, ICDS Directorate ought not to have suggested the nature of punishment. In this view of the matter, the District Programme Officer would pass a fresh order on the basis of the report of the ICDS applying his own mind without influenced by the recommendation of the Directorate to terminate the services of the

petitioner. It is expected that a fresh order would be passed within six weeks from the date of receipt of a copy of this order.

In the result, the writ application is disposed of to the extent mentioned above. The impugned order passed by the District Programme Officer dated 09.12.2013 and the Appellate order dated 18.02.2014 are hereby set aside.

(Samarendra Pratap Singh, J)

rohit/kunal/-

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