

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3993 of 2014

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1. Shail Kumari Wife Of Surendra Goswami Resident Of Village- Saraiya,
P.O.- Saraiya, P.S.- Krishnagarh, District- Bhojpur (Arrah)

.... Petitioner/s

Versus

1. The State Of Bihar
2. The Principal Secretary, Social And Welfare Department, Govt. Of Bihar, Patna
3. The Director, Integrated Child Development Scheme, Govt. Of Bihar, Patna
4. The Deputy Director Welfare, Patna Division, Patna
5. The District Magistrate And Collector, District- Bhojpur, Arrah
6. The District Programme Officer, District- Bhojpur, Arrah
7. The Block Development Officer, Barhara, P.S.- Barhara, District- Bhojpur, Arrah
8. The Circle Officer, Barhara, P.S.- Barhara, District- Bhojpur, Arrah
9. The Anubhajan Padadhikari, Barhara, P.S.- Barhara, District- Bhojpur, Arrah
10. The Child Development Project Officer (C.D.P.O.) Block- Barhara, P.S.- Barhara, District- Bhojpur, Arrah

.... Respondent/s

with

Civil Writ Jurisdiction Case No.2224 of 2014

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1. Gulzari Devi W/O Sri Gupteshwar Prasad Resident Of Village- Saraiya,
P.O- Saraiya, P.S- Krishnagarh, District- Bhojpur (Arrah)

.... Petitioner/s

Versus

1. The State Of Bihar
2. The Principal Secretary, Social And Welfare Department, Govt. Of Bihar, Patna.
3. The Director, Integrated Child Development Scheme, Govt. Of Bihar, Patna.
4. The Deputy Director Welfare, Patna Division, Patna.
5. The District Magistrate And Collector, District Bhojpur, Arrah.
6. The District Programme Officer District- Bhojpur, Arrah.
7. The Block Development Officer, Barhara, P.S- Barhara, District- Bhojpur, Arrah.
8. The Circle Officer, Barhara, P.S- Barhara, District- Bhojpur, Arrah
9. The Anubhajan Padadhikari, Barhara, P.S- Barhara, District- Bhojpur, Arrah
10. The Child Development Project Officer (C.D.P.O) Block- Barhara, P.S- Barhara, District- Bhojpur, Arrah.

.... Respondent/s

Appearance :

(In CWJC No.3993 of 2014)

For the Petitioner/s : Mr. Dharendra Kumar Sinha

For the Respondent/s : Mr. Sc-10
(In CWJC No.2224 of 2014)
For the Petitioner/s : Mr. Dharendra Kumar Sinha
For the Respondent/s : Mr. Ansul

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**CORAM: HONOURABLE MR. JUSTICE SAMARENDRA
PRATAP SINGH**
ORAL ORDER

3 08-01-2016

As the issues involved in both these writ applications are similar, they are being heard together and are being disposed of by this common order.

The petitioners seek quashing of order dated 7.9.2013 passed by the District Programme Officer, Bhojpur cancelling their appointment as Aangan Bari Sevika which was affirmed by the Deputy Director Welfare, Patna Division, Patna in Aangan Bari Appeal No.95/2013-14 and 96/2013-14.

The petitioners have challenged the impugned order on two grounds. They submit that as per clause 10.5 of the guidelines dated 4.11.2011 of the State Government, it is the District Programme Officer who is vested with the power to pass appropriate order against Aanganbari Sevika/Sahaiyka if they are charged of irregularities in conducting Aanganbari Centre including order of termination. However, in the instant case, the District Programme Officer has passed the impugned order at the behest of the Collector, Bhojpur which is not permissible in law.

The petitioners further submit that the Appellate Authority had not considered the aforesaid aspect and the impugned order has been passed in violation of principles of natural justice.

A counter affidavit has been filed on behalf of the State wherein the District Level Enquiry Committee found gross irregularities in distribution of Poshahar in the flood relief camp situated in Middle School Saraiya and as such the District Magistrate directed for distribution of service of the petitioner.

It is true that the appointment of Aanganbari Sevika/Sahaiyka is not an appointment pursuant to a statute nor they can be regarded as government employee. The appointment and other matters relating to service are guided by the guidelines issued by the Social Welfare Department from time to time. Clause 10.6 of the guidelines confers disciplinary authority on the District Programme Officer to pass appropriate order in case of dereliction of duty. However, such order cannot be passed at the behest of another authority or without providing an opportunity of hearing as the same would visit the employee with dire civil consequences.

In the result, these writ applications are allowed. The impugned orders terminating the services of the petitioners are set aside with liberty to the respondents to proceed afresh in accordance with law.

(Samarendra Pratap Singh, J)

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