

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.990 of 2015

In

Civil Writ Jurisdiction Case No. 20065 of 2013

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Doli Kumari, Wife of Padum Kumar Rai, Resident of Village- Phulwaria
Tole Jakhar, P.S.- Rosera, District- Samastipur.

.... Appellant/s

Versus

1. The State of Bihar, through the Director I.C.D.S., Social Welfare Department, Govt. of Bihar, Patna.
2. The Commissioner Darbhanga Division at Darbhanga.
3. The Collector Samastipur, at Samastipur.
4. The District Programme Officer, I.S.D.S., Samastipur.
5. The Child Development Project Officer Shivaji Nagar, Block District - Samastipur

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Vinod Kumar, Advocate
For the State : Mr. Prabhakar Jha, GP-27
Mr. Mukund Mohan Jha, AC to GP-27

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CORAM: HONOURABLE MR. JUSTICE RAMESH KUMAR DATTA

and

HONOURABLE MR. JUSTICE BIRENDRA KUMAR

ORAL ORDER

(Per: HONOURABLE MR. JUSTICE RAMESH KUMAR DATTA)

5 23-11-2016

I.A. No. 4151 of 2015:

The interlocutory application has been filed for
condoning the delay of 90 days in filing the appeal.

On a consideration of the facts and circumstances
mentioned in the application and upon hearing learned counsels
for the parties, the delay in filing the appeal is condoned.

The appeal is directed against the order dated
24.11.2014 of a learned Single Judge passed in CWJC No.
20065 of 2013 by which the writ application has been dismissed.



The matter has arisen out of the order dated 29.5.2012 passed by the District Programme Officer by which the petitioner has been disengaged as Anganbari Sevika, Center No. 35, Phulwaria, Jakhar in Shivaji Nagar Block. The allegation was that the petitioner was absent on 21.1.2012 at 12.45 P.M. when the inspection was made by the CDPO, Shivaji Nagar and the Centre was found closed. Further there was no Board of the Centre and it appeared that the Center was not opened. The CDPO also reported that in earlier inspection also it was found that the Center was not running in a proper manner. In her reply to the show cause issued the petitioner-appellant stated that she was engaged in the Pulse Polio Programme which was going on from 15.1.2012 to 21.1.2012 and on 21st January, 2012 she had gone for getting the THR. According to the respondents even for going for collection of THR she was required to inform the CDPO which she has admittedly not done. Again the claim was made by the writ petitioner-appellant that she had distributed THR on 22.1.2012 but with respect to the same also the CDPO informed that no information was given to him as required by the Guidelines for making such distribution. Thus, it was found that she was violating the Government Guidelines openly in the matter. An appeal against the order dated 29.5.2012 passed by



the District Programme Officer terminating her engagement was also rejected by the District Magistrate on 16.10.2012. The revision application filed before the Divisional Commissioner has also been rejected by order dated 27.8.2013 passed by the Commissioner, Darbhanga Division. Thereafter the learned Single Judge of this Court by the impugned order dated 24.11.2014 has dismissed the writ petition.

From perusal of the order under appeal we find that the learned Single Judge, after noting the entire facts, has also noted the new plea that has been sought to be raised by bringing on record the certificate granted by the Mukhiya of the Gram Panchayat, which plea has not been taken before any of the three authorities earlier and accordingly the said plea has been rejected by the impugned order.

It has also been noted in the impugned order that the appellate authority had given a finding that the writ petitioner had not brought any evidence or material to support her absence on 21.1.2012. For the said reasons, after noting the limitation of the jurisdiction of judicial review to be exercised only with respect to the procedural fairness and regularity and that this Court cannot embark upon reappraisal of evidence and materials unless a clear perversity is established which was not found by



the learned Single Judge, the writ application was dismissed.

Nothing has been pointed out before us so as to differ from the opinion of the learned Single Judge. We, therefore, find no merit in the appeal. The appeal is, accordingly, dismissed.

(Ramesh Kumar Datta, J)

S.Pandey/-

(Birendra Kumar, J)

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