

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.9124 of 2014

=====

Mehrun Nisha Wife of Mintu resident of Village - Bairiya, P.S. Amdabad, District
- Katihar

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Social Welfare Department,
Government of Bihar, Patna
2. The Director, Integrated Child Development Services Bihar, Patna
3. The Regional Development Officer Purnea Division, Purnea
4. The District Magistrate, Katihar
5. The District Programme Officer, I.C.D.S., Katihar
6. The Child Development Programme Officer, Amdabad, Katihar
7. The Mukhiya Gram Panchayat Raj Bairiya, Amdabad Block District - Katihar
8. The Panchayat Secretary, Gram Panchayat Raj Bairiya, Amdabad Block, District
- Katihar
9. Afsane Khatoon Wife of Mukhtar Alam resident of village - Bairiya, P.S.
Amdabad, District - Katihar

.... Respondent/s

=====

Appearance :

For the Petitioner/s	:	Mr. Mukesh Kumar Jha
For the Respondent/s	:	Mr. R. B. P. Yadav, A.A.G.-11 Mr. Ramashray Roy, AC to A.A.G.-11
For the Respondent No. 9	:	Mr. Ajit Kumar Singh

=====

CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI

ORAL JUDGMENT

Date: 04-10-2016

Heard learned counsel for the parties.

By virtue of Annexure-3, dated 22.03.2014,
which is an order, passed by the Regional Development
Officer, Purnea in Miscellaneous Appeal No. 3 of 2013, the
petitioner who was selected on the post of Anganwari
Sevika stands removed. It is this decision, which is subject
matter of challenge.



Submission of the counsel for the petitioner is that against the vacancy caused by removal of Respondent No. 9 for committing certain omission or commission, petitioner was duly selected by the Aam Sabha and appointed as an Anganwari Sevika. While she was working, in the appeal moved by Respondent No. 9 before the appellate authority, the decision to reinstate her, has been taken, which means that the petitioner stands ousted.

Selection of the petitioner was effected against the vacancy caused due to removal of Respondent No. 9, which was a contingent action. Therefore, the selection was not absolute and if by a judicial or quasi judicial process, if the removal of the Respondent No. 9 was found to be not in accordance with the law or not supported by law, then the petitioner will have to make way for the private-respondent.

The finding of the appellate authority is that there was no evidence available or made available to support the allegation of wrong doing by the private-respondent, while rendering service as an Anganwari Sevika. Any allegation without supporting evidence and finding, obviously, cannot be sustained. This is what the appellate authority has held in its impugned order.

Since the impugned order does not suffer

from any vice, the same is not required to be interfered with. The decision will have consequences for the petitioner.

Writ application has no merit, it is dismissed.

(Ajay Kumar Tripathi, J)

SKM/-

AFR/NAFR	N.A.F.R.
CAV DATE	
Uploading Date	05.10.2016
Transmission Date	