

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.248 of 2015

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Chandra Kala Devi, wife of Shiv Kumar Ram, Resident of Village- Madana,
Panchayat Raj-Jalsain, Block- Andhratharhi, P.S.- Andhratharhi, District-
Madhubani

.... Petitioner/s

Versus

1. The State of Bihar through Secretary, Department of Social Welfare,
Government of Bihar, Patna
2. The Secretary, Department of Social Welfare, Government of Bihar, Patna
3. The Director, Integrated Child Development Scheme, Government of Bihar,
Patna
4. The Commissioner, Darbhanga Division, Darbhanga
5. The District Magistrate, Madhubani
6. The District Programme Officer, Madhubani
7. The Child Development Project Officer, Andhratharhi, District- Madhubani

.... Respondent/s

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Appearance:

For the Petitioner/s : Mr. Kumar Uday Bhanu Roy, Advocate
Mr. Baleshwar Kamat, Advocate
For the State : Mr. Prabaht Kumar, A.C. to G.A.-11

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

ORAL JUDGMENT

Date: 27-09-2016

Heard Mr. Kumar Uday Bhanu Roy, counsel for the
petitioner and Mr. Prabhat Kumar, learned Assisting Counsel to
G.A.-11 for the State.

With the consent of the parties the matter is being taken up
with a view to its final disposal at the stage of admission itself.

The petitioner is aggrieved by the order bearing Memo No.
682 dated 29.10.2009 / 10.11.2009 passed by the District Programme
Officer, Madhubani whereby she has been terminated from the post of
Anganwari Sevika, Center No. 36, Madna Sahu Tola, Gram
Panchayat- Madna, Block- Andhratharhi in the District of Madhubani.
The order is affirmed by the District Magistrate who has dismissed the

appeal vide order passed on 12.6.2010 and which orders have been affirmed by the Commissioner, Darbhanga Division vide his order passed on 18.1.2014. The orders aforementioned are impugned at Annexure-1, 2 and 3 respectively to the writ petition.

Fact of the case briefly stated is that an inspection was carried out on 12.8.2009 on an alleged complaint against the petitioner of distribution of 'Take Home Ration' in a restrictive manner. The order of the District Programme Officer impugned at Annexure-1 reflects that an enquiry was carried out by the state level enquiry team on 12.8.2009 under the orders of the Deputy Secretary, Social Welfare Department, Government of Bihar dated 18.9.2009. It is further mentioned that a show cause bearing No. 589 dated 19.10.2009 was served on the petitioner as well as the Sahayika and who admitted to the guilt with a prayer to condone the same and with assurance to correct themselves. It is in consideration of the nature of allegation that the District Programme Officer has cancelled the appointment of the petitioner as Anganwari Sevika as well as the appointment of the Sahayika and which order of the District Programme Officer dated 10.11.2009 impugned at Annexure-1 has been confirmed by the appellate authority i.e. the District Magistrate vide order dated 12.6.2010 impugned at Annexure-2 and the Commissioner, Darbhanga Division vide his order dated 18.1.2014 vide Annexure-3. The petitioner feeling aggrieved is before this Court.



Mr. Roy, learned counsel appearing for the petitioner submits that the inspection was carried out behind the back of the petitioner and while during her deputation under the Pulse Polio Campaign which was carried out in the Block within the Gram Panchayat between 09.8.2009 to 13.8.2009 and again on 15.8.2009. For the purpose, Mr. Roy has referred to a deputation order present at Annexure-5 whereunder the petitioner was directed to be a part of the campaign from 7:00 A.M. in the morning till 4:00 P.M. in the evening for the period aforementioned. Meaning thereby the petitioner was not present on the date of inspection on 12.8.2009 and thus whatsoever be the nature of complaint, was set up behind her back. It is also the complaint of Mr. Roy that the show cause notice referred to in the termination order bearing Memo No. 589 dated 19.10.2009 was never served on the petitioner. The third stand taken by Mr. Roy is that the petitioner has never admitted to the guilt. He thus submits that the termination order is based on a false accusation and in absence of any evidence connecting the petitioner with the alleged complaint.

A counter affidavit has been filed and although attempt is made by Mr. Prabhat Kumar, learned State Counsel to justify the orders impugned but in my opinion the counter affidavit is as vague as it can be. There is absolutely no response to the issue raised by Mr. Roy which stands noted in the order of this Court on 16.8.2016. A parrot like sequence of events as found in the impugned order of

termination of the District Programme Officer has been reiterated by the Child Development Programme Officer without bothering to appreciate as to the issues raised by the petitioner in this writ petition. The situation is that the issues raised by Mr. Roy goes uncontested.

For the reasons aforementioned and in the circumstances that there is nothing on record which would confirm the accusation or connect the petitioner to the alleged offence, the orders impugned as confirmed by the superior authorities having been passed in a mechanical manner and without application of mind cannot be upheld. In result, the orders impugned dated 29.10.2009/10.11.2009 passed by District Programme Officer, Madhubani as confirmed by the superior authorities vide orders dated 12.6.2010 and 18.1.2014 impugned at Annexures 1,2 and 3 respectively are quashed and set aside.

The writ petition is allowed.

The petitioner stands restored to her post of Anganwari Sevika.

(Jyoti Saran, J)

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