

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.1662 of 2016
Arising out of
Civil Writ Jurisdiction Case No. 1987 of 2014**

=====

1. Bibi Husna Ara W/O Minhaj Alam, Resident of Taran Ghat Tola, P.S. Jokihat,
P.O.- Dubba, District- Araria.

.... Appellant

Versus

1. The State of Bihar through
2. The Director, Chief Development Scheme, (The Govt of Bihar)
3. The District Magistrate, Araria, District- Araria.
4. The District Programme Officer, Araria, District- Araria.
5. The Child Development Programme Officer, Araria, Dist Araria

.... Respondents

=====

Appearance :

For the Appellant : Mr. Y.V.Giri, Sr. Advocate
Mr. Nadimul Hasan, Advocate
For the Respondents : Mr. Kameshwar Kumar-GP17

=====

**CORAM: HONOURABLE THE ACTING CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE VIKASH JAIN
ORAL JUDGMENT**

(Per: HONOURABLE THE ACTING CHIEF JUSTICE)

Date: 19-11-2016

The order dated 27th July, 2016 passed by the learned Single Bench of this Court in C.W.J.C. No. 1987 of 2014 is subject matter of challenge in the present Letters Patent Appeal. The order dated 12.11.2013 was the subject matter of challenge in the writ application whereby, the appellant was removed from service as Anganwari Sevika, Centre-185, Taran Ghat Tola.

The Centre over which the appellant was appointed as Anganwari Sevika, was inspected on 07.09.2013 by the Additional Director, ICDS, Patna. In the Centre over which the appellant was on



duty, at the time of inspection, only 13 children were found; mid-day meal was not cooked; Menu and quantity of food were not displayed and the condition of the building of the centre was pitiable. On account of the short comings found, a show cause was served upon the appellant and in her reply to the show cause (Annexure-4) the stand of the appellant is that there were 40 children at the Centre and the Centre runs from 9.00 AM to 1.00 PM and the inspection was made at 9.20 AM when 13 children were present. The children do come to the Centre late because they belong to rural areas. In respect of allegation that the mid-day meal was not prepared, the explanation is that preparation of mid-day meal starts at 10.15 AM which is served to the children at 12.30 PM.

In respect of allegation that the condition of the building of the centre was pitiable, the stand of the appellant was that the department has not paid money for the construction work, therefore, the windows and doors of the building are not complete and that on receipt of money, the building will be completed. The appellant also asserted that the contents of menu for mid-day meal were displayed in the centre but it was not noticed by the Inspecting Team at the time of inspection. Thus, her stand was that she has not committed any wrong in running the Anganwari Centre. Thereafter, on 12.11.2013, the service of the appellant was dispensed with, with further direction that

the selection process for appointment of the fresh Anganwari Sevika shall be initiated.

The learned Single Bench took into consideration the averments made in the supplementary counter affidavit that centre was inspected even on 6.09.2013 and was found to be wanted in many areas, therefore, the action of removal of the appellant is said to be justified.

Learned senior counsel for the appellant refers to the judgment of the Supreme Court, reported as Oryx Fisheries Private Limited Vs Union of India & ors 2010(13)SCC 427 to contend that the reply to the show cause has not been considered by the respondents before passing the order of dispensing with the service of the appellant as Anganwari Sevika. Reliance has also been placed on an order passed by the learned Single Bench of this Court reported as Manjula Kumari & Anr Vs. The State of Bihar 2012(4) BBCJ 127 that the failure to follow the principle of natural justice and the fair treatment will vitiate the order of termination as Anganwari Sevika. Learned Senior Counsel also refers to certain orders of learned Single Benches wherein this Court has interfered with the termination of services of Anganwari Sevika.

We have heard learned Senior Counsel for the appellant and find that the various deficiencies pointed out in the inspection report dated 4.10.2013 are factually not disputed. The stand of the appellant



is that she is working as Anganwari Sevika since the year 2003. Therefore, in ten years the appellant was not able to ensure that the children come to the Centre at the appointed time from 9.00 AM in the morning. It shows lack of motivation by the appellant. In respect of poor condition of the building, the stand is that due to lack of fund, construction of the building could not be completed but it is not the stand of the appellant that she ever wrote or informed the concerned authorities for the same. She felt happy to work in the Centre which was not in good condition. The fact that the cooking of mid-day meal was not ready is admitted but is asserted that the cooking of mid-day meal would start at 10.15 AM. We are not very sure whether the cooking of mid-day meal could be started at that time. But even if such stand is accepted, the other deficiencies do not warrant any other order but her removal. Therefore, we do not find that the order passed by the District Programme Officer can be said to be suffering from any illegality.

In the present case after the inspection was carried out, a show cause notice was given and the appellant has practically admitted the allegations. Therefore, it cannot be said that the principle of natural justice and fair treatment were not adhered to in the case of the appellant. The judgment in Oryx Fisheries Private Limited's case (supra) again is not helpful to the appellant as the principle of natural

justice has been complied with as the appellant has admitted the substance of the allegations.

We do not find any error in the order passed by the learned Single Bench which requires interference in the Letters Patent jurisdiction of this Court.

The Letters Patent Appeal is, thus, dismissed.

(Hemant Gupta, ACJ)

(Vikash Jain, J)

A.I./-

AFR/NAFR	A.F.R.
CAV DATE	N.A.
Uploading Date	26.11.2016
Transmission Date	