

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.89 of 2014
Arising out of
Civil Writ Jurisdiction Case No. 12503 of 2008
Along with
Interlocutory Application No. 1029 of 2014**

=====

Reema Kumari, wife of Daya Kant Yadav, resident of Village and Post Office -
Dighi, Block And Police Station Murliganj, District - Madhepura

.... Respondent No.6- Appellant

Versus

1. The State of Bihar.
2. The Secretary, Social Welfare Department, Government of Bihar, Patna.
3. The District Magistrate, Madhepura.
4. District Welfare Officer, Madhepura.
5. The Commissioner, Koshi Pramandal, Saharsa.

.... Respondents-Respondents

6. Anju Kumari wife of Sri Sudhir Kumar, resident of Village - Dighee, Police
Station - Murliganj, District – Madhepura.

.... Petitioner-Respondent

=====

Appearance :

For the Appellant : Mr. Uday Chand Prasad, Advocate
Mr. Manoj Kumar, Advocate

For the Respondent Nos.1 to 5 : Mr. Ashok Kumar, S.C. -11
Mr. Amresh, A.C. to S.C.-11

For the respondent No.6 : Mr. Amit Shrivastava, Advocate
Mr. Girish Pandey, Advocate

=====

CORAM: HONOURABLE MR. JUSTICE HEMANT GUPTA

And

HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE HEMANT GUPTA)

Date: 01-04-2016

The challenge in the present Letters Patent Appeal is to an
order dated 12th of September, 2013 whereby the writ application filed

by respondent No.6 was allowed and the appellant was ordered to make way for the respondent No.6.

The respondent No.6 was appointed as *Anganwari Sevika*. Her appointment has been set aside by the Collector on 02.05.2008 for the reason that she has failed to distribute Take Home Ration on 25th of April, 2008. The said order was affirmed in the appeal by the Divisional Commissioner on 12th of October 2009.

The learned Single Bench found that she was directed by Panchayat Supervisor that she has to help in immunization work and that the distribution of Take Home Ration would be done on 2nd of May, 2008. There was said to be a written order to that effect; therefore, it was found that since an order has been issued by a person holding position or authority, then the respondent No.6 is bound to obey the same.

In the meantime, after termination of services of the respondent No.6, the appellant was appointed; therefore, the appellant is challenging the order of reinstatement of respondent No.6 so as to protect her continuation in the assignment.

We have heard learned counsel for the parties and find that there are factual errors in the order passed. The respondent No.6 relies upon inspection report (Annexure-4). The inspection was conducted by Pradip Kumar Gupta. The remarks by the respondent No. 6 are that on

account of immunization work, she could not distribute Take Home Ration which will be done on 2nd of May, 2008.

From the said remarks in the inspection register, it cannot be made out that there was any direction of any superior officer to the respondent No.6 to defer the delivery of Take Home Ration and involve exclusively in the immunization work. A perusal of the writ application rather shows that the immunization work was meant for the wards which were coming to the Centre. Therefore, the immunization work could very well be conducted along with the responsibility of distribution of Take Home Ration. As an *Anganwari Sevika*, the respondent No.6 was to take care of the children coming to the Centre, therefore, there was nothing extraordinary if she assisted the immunization work of the children as well. There is no order of any superior authority that she could defer the distribution of Take Home Ration to 2nd of May, 2008.

We find that failure to distribute Take Home Ration by Respondent No. 6 on the stipulated date has made her liable to penal action which has rightly been taken by the authority.

In view thereof, we find that the order of the Collector as affirmed in appeal by the Divisional Commissioner terminating the services of respondent No.6 cannot be said in any way suffered from any illegality.

Consequently, we allow the present Letters Patent Appeal setting aside the order passed by the learned Single Bench and restore the order of termination of service of respondent No.6 as *Anganwari Sevika*.

(Hemant Gupta, J)

(Ahsanuddin Amanullah, J)

Sunil/-

N.A. F. R.

U			
---	--	--	--