

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No. 18179 of 2008

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Asha Kumari, W/o Ranjeet Choudhary, and daughter of Ram Narayan Choudhary,
a permanent resident of Village – Muzaffara, P.S. – Birpur, District – Begusarai.
..... Petitioner

Versus

1. The State of Bihar
 2. Director, (I.C.D.S. Directorate), Department of Welfare, Government of Bihar.
 3. District Magistrate, Begusarai.
 4. District Programme Officer, Begusarai.
 5. Rani Singh, Mukhiya, Gram Panchayat – Dih Par, P.S. and Anchal – Birpur,
District – Begusarai.
 6. Bimla Devi, W/o Ganesh Bhagat, resident of village – Muzaffara, P.S. Birpur,
District – Begusarai.
- Respondents
- =====

Appearance :

For the Petitioner/s : Mr. Rajni Kant Jha
For the Respondent/s : AC to Addl. Advocate General – 15
Mr. Uma Shankar Pd. Singh

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CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR
ORAL JUDGMENT
Date: 24-03-2017

Heard Sri Rajni Kant Jha, learned counsel for the
petitioner, learned A.C. to Addl. Advocate General – 15 as well as Sri
Uma Shankar Prasad Singh, learned counsel appearing on behalf of
respondent no. 6.

2. The petitioner has invoked the writ jurisdiction under
Article 226 of the Constitution of India, with a prayer to quash an
order dated 14-07-2008 passed by the District Magistrate, Begusarai,
issued vide letter no. 74 under the signature of District Programme
Officer, Begusarai. By the said order, the District Magistrate has
cancelled the appointment of the petitioner, as Anganbari Sevika,
Aanganbari Centre No. 7, Gram Panchayat – Birpur in the District of



Begusarai.

3. It is case of the petitioner that initially the petitioner was selected as Anganbari Sevika and after completing training, she started to discharge her duty as Anganbari Sevika. Thereafter, a complaint was filed by the respondent no. 6 before the District Magistrate and the District Magistrate, after hearing the parties, by order contained in Memo No. 450 dated 25-03-2008 (**Annexure – 10** to the writ petition) rejected the complaint filed by the respondent no. 6 and affirmed the appointment of the petitioner.

4. It has been argued that once the District Magistrate, on the basis of complaint, had examined the veracity of selection of the petitioner, as Anganbari Sevika, and did not notice any error in the appointment, the same District Magistrate, at subsequent stage, was not at all authorized to review its earlier order and as such, the order impugned i.e. **Annexure - 1** to the writ petition is fit to be set aside on the ground that order was passed without jurisdiction by the District Magistrate.

5. At the very outset, the Court asked learned counsel for the petitioner that if there was a provision for appeal against the order of the District Magistrate, whether the petitioner was required to file appeal or not, Sri Jha, learned counsel for the petitioner emphasized that if order impugned is without jurisdiction, the writ court is well



competent to examine the same and set aside the order. However, after going through the order, which has been impugned in the present petition, it is evident that the learned District Magistrate has passed order on the basis of fact that earlier there was suppression of fact. Though, the petitioner was married, those facts were not disclosed. However, Sri Jha, learned counsel for the petitioner submits that the petitioner was deserted by her husband and thereafter, she was living with her parents in the village in question and as such, the petitioner may not be considered as married lady.

6. Besides hearing learned counsel for the parties, I have also perused the materials on record. At the moment, I am not required to examine whether the petitioner was deserted or not. Fact remains that in earlier order i.e. Annexure – 10, no report was received. Only on the basis of written statement filed by the petitioner, the case was decided. However, on perusal of the impugned order, it is evident that before passing order, detailed enquiry was conducted and thereafter, the learned District Magistrate had come to the conclusion that earlier order was passed due to misrepresentation and not placing the correct fact.

7. The Court is of the opinion that if an order is passed on the basis of misrepresentation, the same court is well competent to review its earlier order. Considering the impugned order, which



suggests that earlier true fact was not placed, the Court is of the opinion that the District Magistrate has committed no error in passing the impugned order.

8. The writ petition stands dismissed.

(Rakesh Kumar, J.)

Anay

AFR/NAFR	NAFR
CAV DATE	N/A
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Transmission Date	N/A

