

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17814 of 2008

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Manju Kumari, wife of Sri Rajendra Kumar, resident of North Lakhibagh, P.S.-
Masaurhi, District-Patna.

.... Petitioner/s

Versus

1. The State of Bihar
2. Divisional Commissioner, Patna Division, Patna.
3. District Magistrate, Patna.
4. Gopal Krishna Singh, District Programme Officer, Collectorate, Patna.
5. Child Development Project Officer (CDPO), Masaurhi, Patna.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. MUKESH KR.THAKUR

For the Respondent/s : Mr. (GP1)

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA

ORAL JUDGMENT

Date: 28-01-2017

Heard both the sides.

The petitioner seeks quashing of Annexure-1, as contained in memo no.2029 dated 26.11.2008, by which it is ordered that the termination of the petitioner shall remain as it was earlier ordered by the District Magistrate order no.1649 dated 29.07.2008.

The brief facts enumerated for disposal of the writ petition are that the petitioner was appointed and selected for Anganwari Sevika for North Lakhibagh Centre Code No.181, Masaurhi, Patna after due process of issuance of advertisement and selection in Aam Sabha held on 06.03.2007. One Lalti Kumari, who had also applied for the post of Anganwari Sevika for the same centre, filed objection that she should have been selected as she secured higher points than that of the petitioner. The Sub-Divisional Officer,



Masaurhi, Patna held an enquiry and recommended for selection of Lalti Kumari to the post of Anganwari Sevika in place of the petitioner. Accordingly, the District Magistrate, Patna vide his order contained in memo no.1649 dated 29.07.2008 disengaged the service of the petitioner from the post of Anganwari Sevika of Anganwari Centre No.181. The petitioner preferred Misc. Appeal No.308 of 2008 before the Commissioner, Patna. The Commissioner vide his order dated 17.10.2008 set aside the order of the District Magistrate as contained in memo no.1649 dated 29.07.2008 and directed the District Magistrate to pass order on the basis of the directions contained in Clause 8 to 10 of Circular 2006 with regard to Anganwari Sevika/Sahayika selection.

Learned counsel appearing on behalf of the petitioner submits that on remand by the Commissioner, Patna, the Collector, Patna did not pass order and he delegated the power to the District Programme Officer who after holding enquiry held that the order passed by the Collector, Patna, as contained in memo no.1649 dated 29.07.2008, shall remain as it was ordered by the District Magistrate. It is submitted that the power cannot be delegated to the District Programme Officer and the Collector should have himself passed the order in pursuance of the order of the Commissioner.

Per contra, learned counsel appearing on behalf of the State submits that the writ petition is not maintainable on the simple



ground as held by a Division Bench of this Court in 2011 (4) PLJR 20 that the petitioner is Anganwari Sevika and disengagement from service of Anganwari Sevika does not entitle her to get relief under Article 226 of the Constitution of India.

It appears that the facts of the present case are quite different. In the aforesaid case, after thorough enquiry the service of the writ petitioner was dismissed. In the present case, the Commissioner on remand remitted the case to the Collector to pass order in accordance with law in view of the provisions contained in Clause 8 to 10 of the Circular, 2006 meant for selection of Anganwari Sevika/Sahayika, but the Collector instead of passing the order, as per the direction of the Commissioner, delegated the power and directed the District Programme Officer to pass order. Therefore, in my view, the order, as contained in Annexure-1, is illegal. Accordingly, the same is quashed. The matter is remitted back to the Collector to pass order afresh in accordance with law after hearing the parties.

Arvind/-

(Prabhat Kumar Jha, J)

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

