

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.187 of 2017

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Ranju Devi Wife of Binay Yadav Resident of Village-Laxmipur, P.S.-
Udakishunganj, District-Madhepura

.... Petitioner

Versus

1. The State of Bihar
2. The Principal Secretary, Social Welfare Department, Government of Bihar, Patna
3. The Director, Integrated Child Development Scheme (I.C.D.S.), Bihar, Patna
4. The Deputy Director, Welfare, Koshi Division, Saharsa
5. The District Magistrate, Madhepura
6. The District Programme Officer, Madhepura
7. The Child Development Project Officer, (C.D.P.O.) Udakishunganj Block,
District-Madhepura

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Sanjeev Kumar, Adv.

For the Respondent/s : Mr. M.K.Upadhyay, AC to GP-3

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

ORAL JUDGMENT

Date: 17-03-2017

Heard Mr. Sanjeev Kumar, learned counsel for the petitioner
and Mr. Mithilesh Kumar Upadhyay, AC to GP-3, for the State.

Despite three indulgences having been granted to the State
on 25.1.2017, 6.3.2017 and again on 10.3.2017 yet it has not been
found sufficient for the respondent authorities including the District
Programme Officer, Madhepura and the Child Development Project
Officer, Udakishunganj to respond to the issue raised. Since this Court
by the previous order passed on 10.3.2017 had made it clear that in
case the situation remains the same the matter would proceed on the
basis of materials on record, hence the matter is now taken up for
consideration on the basis of materials present on record.



The facts of the case lie in a very narrow compass. The petitioner was selected as Anganwari Sahaika for Centre No. 84, Ram Tola, Laxmipur, Block Udakishunganj in the district of Madhepura on 28.6.2004 and for a single day absence on 12.7.2012 that she was put to notice by the District Programme Officer bearing Memo No. 971 dated 8.9.2012, a copy of which is present at Annexure 1. The petitioner explained her absence from the centre vide Annexure 2 and was given a warning by the District Programme Officer which is manifest from the remarks present at the margin of the representation of the petitioner present at Annexure 2.

It is the contention of the learned counsel for the petitioner that despite the District Programme Officer having let off of the petitioner with a warning to be careful in future, yet by the impugned order dated 25.9.2012 present at Annexure 3 she has been relieved from the post of Anganwari Sahaika. The petitioner feeling aggrieved filed an appeal before the District Magistrate, Madhepura vide Annexure 4 and which was numbered as Appeal No. 35-85 of 2012. A report was called for from the In-charge Medical Officer, Primary Health Centre, Udakishunganj and who supported the ailment of the daughter of the petitioner as well as her treatment which is confirmed from Annexure 7. Yet the District Magistrate, Madhepura vide order dated 3.9.2016 has dismissed the appeal on grounds that although



treatment took place in the evening but it is the absence of the petitioner in the morning hours which is the cause of removal and for which there is no information and explanation. A copy of the order passed by the District Magistrate, Madhepura in Appeal No. 35-85/2012 is impugned at Annexure 8.

I have heard learned counsel for the parties and have perused the records.

Rather a myopic stance finds expressed in the order of the District Magistrate which is not sustainable on the following grounds:

(a) The petitioner's daughter was suffering stands confirmed from the report of the In-charge Medical Officer, Primary Health Centre, present at Annexure 7. Meaning thereby, it is not in dispute that the daughter of the petitioner was suffering from Diarrhoea. It is also not in dispute that she was under treatment. Strangely even when the daughter of the petitioner suffering medical problems, is not in dispute, a hyper technical conceited approach has been shown by the respondents in cornering the petitioner for his absence in the morning hours. The petitioner has explained in her representation present at Annexure 2 that her daughter was ailing since the night of 11.7.2012 itself, and for which she was running for medical treatment since morning of 12.7.2012 but even such valid explanation to her absence has gone unnoticed.



(b) The District Programme Officer having already issued a warning to the petitioner on her explanation, there was no occasion for him to proceed any further. There cannot be two punishment for the same cause.

(c) A removal for a single day absence has already been held by this Court in a number of decisions, to be extremely harsh.

For the reasons so discussed, the order of removal of the petitioner present in the order of the District Programme Officer dated 25.9.2012 impugned at Annexure 3 as confirmed by the District Magistrate, Madhepura vide order dated 3.9.2016 in Appeal Case No. 35-85/2012 impugned at Annexure 8 cannot be upheld and are accordingly quashed and set aside.

The petitioner stands reinstated on her post. The writ petition is allowed.

(Jyoti Saran, J)

Surendra/-

AFR/NAFR	AFR
CAV DATE	NA
Uploading Date	28.03.2017
Transmission Date	NA

