

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.10549 of 2014

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Champa Devi Wife of Jagarnath Bhagat resident of Village- Harkarua, P.O- Kamrauli, P.S- Piprahi, District- Sheohar. Petitioner

Versus

1. The State of Bihar through Secretary, Social Welfare Department, Patna.
 2. The Commissioner, Tirhut Division, Muzaffarpur.
 3. The District Magistrate, Sheohar.
 4. The District Programme Officer, Sheohar.
 5. The Child Development Programme Officer, Piprahi, Sheohar.
- Respondents
- =====

Appearance :

For the Petitioner : Mr. Ashish Kr. Ranjan, Advocate and
Mr. Ashhar Mustafa, Advocate

For the Respondents : Mrs. Binita Singh, SC 28 and
Mr. Kr. Kamalnayan, Advocate

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CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD

ORAL JUDGMENT

Date: 27-11-2017

The writ petition was filed in the year 2014 with service of its copy to the counsel for the State. Till date, no counter affidavit has been filed by the State. Appointment of the petitioner as Anganbari Sahayika at Harkarwa Center No. 58, Post Office Kamrauli, Police Station Piprahi, District Sheohar was cancelled by the District Programme Officer (respondent no.4) vide order dated 1.8.2012. The order of cancellation of appointment was assailed before the District Magistrate, Sheohar (respondent no.3) who also dismissed the appeal vide order dated 2.8.2013. The appellate order was further challenged vide Appeal No. 447 of 2013 before the Commissioner Tirhut Division, Muzaffarpur (respondent no.2) which too was dismissed vide order dated 23.12.2013.

Counsel for the petitioner has brought on record certified copy of the order dated 23.12.2013 from perusal of which it appears that the appeal was admitted on 17.6.2013 with a direction for issuance of notice. Matter was directed to be put up on 23.11.2013



for consideration. However, the Presiding officer took up the matter on 10.10.2013 in place of 23.11.2013. He recorded petitioner’s absence and again adjourned the matter to 30.10.2013 and 13.11.2013. It is the case of the petitioner that in her absence, the appeal was dismissed for default by respondent no.2 vide order 13.11.2013, prior to the date fixed in the matter, i.e., 23.11.2013.

Having heard the counsel for the parties and on going through the materials collected on the record, I find that the respondent no.2 first adjourned the hearing of appeal to 23.11.2013 and then took up the matter and dismissed the same for default on 13.11.2013. In that view of the matter, order dated 13.11.2013 is, prima facie, not sustainable in law and is therefore quashed with direction to respondent no.2 to hear the appeal on merits and pass order in accordance with law.

The writ petition is allowed in the aforesaid terms.

(Madhuresh Prasad, J)

Shashi.

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CAV DATE	NA
Uploading Date	29.11.2017
Transmission Date	29.11.2017

