

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.19244 of 2013

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Anita Devi wife of Mithlesh Yadav, resident of Village - Chak Raje, P.S.
Manigachhi, District - Darbhanga

.... Petitioner

Versus

1. The State of Bihar, through the Secretary Social Welfare Department, Govt. of Bihar, Patna
2. The Director, Integrated Child Development Scheme (I.C.D.S.) Department of Social Welfare Department, Govt. of Bihar, Patna
3. The Assistant Director, I.C.D.S., Darbhanga
4. The Collector, Darbhanga
5. The District Program Officer, Darbhanga
6. The Child Development Project Officer, Manigachhi, District - Darbhanga

.... Respondents

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Appearance :

For the Petitioner : Mr. S.N. Yadav
Mr. Saroj Kumar, Advocates.

For the Respondents : Mr. Kaushal Kumar Jha, AAG-8

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 03-11-2017

Heard learned counsel for the petitioner and learned
counsel for the respondents.

2. The present writ petition has been filed for quashing
the order dated 12.07.2013 passed by the Director, I.C.D.S. (respondent
no. 2) the order issued vide File No. 3439 dated 12.07.2013 (contained
in Annexure-8) by which the authority has rejected the claim of the
petitioner and has affirmed the order of termination dated 22.09.2012.

3. Learned counsel for the petitioner makes a short
submission to the effect that the removal is wholly arbitrary and
contrary to law. It is submitted that even assuming that the petitioner
was absent without proper authorization on the date of inspection



namely 26.06.2012, the punishment meted out to her by way of removal is unduly and disproportionately harsh. A statement is made at the Bar that no one else has been appointed in her place as Anganbari Sevika.

4. Learned counsel for the respondents submits that the petitioner was absent during the morning hours from the Anganbari Centre without proper explanation.

5. Having heard the parties and on a careful consideration of the materials on record, this Court finds merit in the writ petition. A Division Bench of this Court in LPA No. 318 of 2013 (*Lalita Kumari vs. The State of Bihar & others*) (*supra*) in dealing with a matter of similar nature where non-acceptance of defence of illness to explain the absence of one day resulting in termination of the appellant, observed as follows:-

“Learned counsel for the appellant submits that the removal was occasioned pursuant to an inspection done by a State Level Inspection Team and her defence of illness explaining absence of one day only has not been considered and rejected summarily as not satisfactory only. The aspect of termination ordered by the District Programme Officer originating in an application by the State Level Inspection Team has been considered in detail by one of us (Navin Sinha, J.) reported in 2013(1) PLJR 901 (Manjula Kumari Vs. State of Bihar). The Appeal has to be allowed in similar terms.”



6. Having regard to the nature of the order passed in LPA No. 318 of 2013 (*Lalita Kumari vs. The State of Bihar & others*) (*supra*), this Court is of the view that termination of the petitioner as *Anganbari Sevika* cannot be sustained and the same is set aside. Accordingly, the writ petition stands allowed.

7. It is, however, made clear that the respondents would be at liberty to impose any other punishment commensurate with the misconduct, if so advised, in accordance with law and after grant of opportunity of hearing to the petitioner. It is also made clear that the petitioner shall not be entitled to any honorarium during the period between her removal and her reinstatement.

(Vikash Jain, J)

Md. Ibrarul/-

AFR/NAFR	NAFR
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