

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3472 of 2014

=====

1. Anjani Kumari W/O Makeshwar Sao Resident Of Village- Tetar Hatt,
P.S.- Halsi, District- Lakhisarai Petitioner/s

Versus

1. The State Of Bihar through the Principal Secretary, Social Welfare
Department, Bihar, Patna
2. The Principal Secretary, Social Welfare Department, Bihar, Patna
3. The Director, I.C.D.S. Directorate, Social Welfare Department, Bihar,
Patna
4. The Divisional Commissioner, Munger
5. The District Magistrate, Lakhisarai
6. The District Programme Officer, Lakhisarai
7. The Child Development Project Officer, Ramgarh Chowk, District-
Lakhisarai
8. Savitri Devi W/O Suresh Prasad Resident Of Village- Tetar Hatt, P.S.-
Halsi, District- Lakhisarai Respondent/s

=====

Appearance :

For the Petitioner : Mr. Ambika Bhagat, Advocate
For the State : Mr. Nirbhay Prashant, AC to SC 17
For the respondent No.8: Mr. Manish Kumar –I, Advocate

=====

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR
JHA
ORAL ORDER

4 17-07-2017 Heard Sri Ambika Bhagat, the learned counsel for the

petitioner, the learned counsel for the State and the learned

counsel for the respondent No.8.

The petitioner has filed this writ petition for quashing
the order dated 13.07.2017 passed by Divisional Commissioner,
Munger, respondent No.4, in Service Appeal No. 19/2012
whereby the respondent No.4 set aside the order of termination of
respondent No.8, Savitri Devi, and directed her to reinstate on the
post of Aanganvari Sevika, centre No. 95, block, Halsi, district,
Lakhisarai.

Respondent No.8 was appointed on the post of



Aanganvari Sevika, centre No. 95, block, Halsi, district, Lakhisarai on 08.03.1997 in accordance with law. The District Welfare Officer made surprise inspection of the centre on 23.11.2007 and found respondent No.8 absent. The District Welfare Officer also found some illegality and irregularity committed by respondent No.8 and he recommended for termination of service of respondent No.8 from the post of Aanganvari Sevika. Accordingly, the Director, I.C.D.S. terminated the service of respondent No.8. The respondent No.8 preferred Misc. case No. 20/2010-11 before the Collector against her termination and the Collector vide order dated 28.12.2011 dismissed the petition of respondent No.8. Respondent No.8 preferred service appeal No. 19/2012 before the Divisional Commissioner, Munger and the Divisional Commissioner vide order dated 13.07.2013 set aside the order of termination of respondent No.8 on the ground that respondent No.8 was not noticed before her termination from service and, accordingly, directed her to be reinstated in service on the post of Aanganvari Sevika, centre No. 95, block, Halsi, district, Lakhisarai.

The petitioner was appointed on 12.01.2009 after termination of service of respondent No.8. The learned counsel for the petitioner submits that respondent No.8 was directed to be reinstated on 13.07.2013 but before that there was no stay order



for making fresh appointment. The authorities advertised the post for appointment and the petitioner was duly appointed on the post. Before termination of service of the petitioner the Divisional Commissioner did not hear the petitioner. Therefore, the order impugned is violative of principle of natural justice.

On the face of it, the submission of learned counsel for the petitioner is not acceptable at all on the simple ground that service of respondent No.8 was terminated on the ground that she was found absent at the time and date of inspection. The Divisional Commissioner found the order of termination of respondent No.8 illegal and, accordingly, the order of termination was set aside. The appointment of the petitioner was simply a stop-gap arrangement after termination of service of respondent No.8. The advertisement meant for fresh appointment clearly states that the appointment shall be subject to result of the court case. Therefore, I find no illegality in termination of service of petitioner. However, the learned counsel for the petitioner submits that petitioner may be allowed to file representation before the Divisional Commissioner, Munger.

Considering the facts aforesaid, the writ petition is disposed of with a liberty to the petitioner to file representation before the Divisional Commissioner, Munger and the Divisional Commissioner, Munger shall, after hearing the parties, dispose of



the representation of the petitioner within four month from the
date of receipt of such representation.

(Prabhat Kumar Jha, J)

BKS/-

U			
---	--	--	--

