

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.10281 of 2017

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Rima Kumari, W/o Anil Kumar, R/o Krishna Toli Brahmpura, Brijbihari gali, Lane no.4 P.S. Brahmpura, Dist.-Muzaffarpur.

.... Petitioner

Versus

1. The State of Bihar
2. The State Information Commission, Suchna Bhawan, Patna, Bihar.
3. The State Information Commissioner, Bihar, Patna.
4. The District Magistrate, Sitamarhi, Bihar.
5. The D.P.O., I.C.D.S., Sitamarhi, Bihar.
6. The District Magistrate, Samastipur, Bihar.
7. The District Programme Officer, (I.C.D.S.), Sitamarhi, Bihar.
8. The Child Development Program Officer, Ujiyarpur, Samastipur, Bihar.

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Gyan Shankar, Adv.

For the Respondent/s : Ms. Binita Singh, Adv.

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

ORAL JUDGMENT

Date: 25-08-2017

Heard Mr. Gyan Shankar, learned counsel appearing for the petitioner and Ms. Binita Singh, learned counsel appearing for the State Information Commission.

The petitioner is aggrieved by the order bearing Memo No. 12842 dated 17.1.2017 of the State Information Commission, whereby a fine has been imposed on the petitioner, inter alia, on grounds that she was holding the post of Child Development Project Officer at the relevant time when the information was sought.

Mr. Shankar, learned counsel for the petitioner, has questioned the order on limited ground to submit that the order has been passed without hearing the petitioner, inasmuch as no notice was



served by the Commission on the petitioner before the order was passed.

It is taking note of such submission that Ms. Singh, learned counsel for the Commission, was allowed time to verify the position from the records and Ms. Singh with reference to the records informs that since the present incumbent holding the post of a Public Information Officer cum C.D.P.O. informed that it is the petitioner who was holding such post when the information was sought that the order has been passed, but while making such submission, Ms. Singh has not been able to demonstrate whether notice was thereafter issued to the present petitioner before the order was passed.

Having heard learned counsel for the parties and considering that the order impugned has been passed by the State Information Commission against the petitioner simply on the statement made by the present incumbent holding the post of a Public Information Officer cum C.D.P.O. to hold that the default, if any, was committed by the petitioner, it was incumbent upon the Commission to have given an opportunity to the present petitioner before the order was passed to enable her to clarify the position. This necessary exercise not having been performed by an authority discharging quasi judicial functions, has rendered the order illegal on ground of violation of principles of natural justice.



For the reasons aforementioned, the order bearing Memo No. 12842 dated 17.1.2017 passed by the State Information Commission in Case No. 99502/2013-14, impugned at Annexure 1, together with the order bearing Memo No. 329 dated 8.3.2017 of the District Magistrate, Samastipur and the order bearing Memo No. 374 dated 15.3.2017 of the Senior Deputy Collector cum District Programme Officer, Sitamarhi, impugned at Annexures 2 and 3 to the writ petition, cannot be upheld and are accordingly quashed and set aside.

This order would not preclude the Commission to proceed in the matter in accordance with law to pass a fresh order but only after opportunity of hearing to the petitioner.

The writ petition is allowed.

(Jyoti Saran, J)

Surendra/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	20.09.2017
Transmission Date	NA

