

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2241 of 2014

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1. Shrimati Hiramani Kumari Wife Of Kopendra Kumar Resident Of Village -
Jhari Bigha, Gram Panchayat Chamandi, Post Office - Pondil, Police Station -
Kurtha, District - Arwal Petitioner

Versus

1. The State Of Bihar through Principal Secretary, Social Welfare, Government of
Bihar, Patna
2. The Commissioner, Magadh Division, Gaya.
3. The Deputy Director, Welfare, Magadh Division, Gaya
4. The District Magistrate, Arwal
5. The District Programme Officer, Arwal
6. C.D.P.O. Sonbhadra, Banshi, Surajpur, District - Arwal Respondents

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Appearance :

For the Petitioner/s : Mr. Jagdish Prasad, advocate
Mr. Uday Narayan Singh
For the State : Mr. AC to AAG IX
For the respondent No.7: Mr. Dineshwar Pd. Sinha, advocate

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA

ORAL JUDGMENT

Date: 21-07-2017

Heard Shri Jagdish Prasad, the learned counsel for the petitioner,
Shri Nagendra Kumar Singh, the learned AC to AAG IX, and Shri Dineshwar
Prasad Sinha, the learned counsel for the respondent No.7.

2. The petitioner filed this writ petition, being aggrieved by the
order dated 26.05.2012, as contained in memo No. 237, by which the District
Programme Officer, Arwal cancelled the selection of the petitioner from the post
of Anganwari Sevika, Anganwari Kendra, Centre No.54, Block-Sonbhadra,
Banshi Surajpur, Arwal on the ground of illegality and irregularity found in
conducting the centre. The petitioner also prayed for quashing the order dated
18.12.2013 (Annexure-9) passed by the Deputy Director, Welfare, Magadh
Division, Gaya in Anganwari Appeal No. 07DM/Arwal/2012 whereby the appeal
of petitioner is dismissed and the order dated 26.05.2012 passed by the District
Programme Officer has been confirmed.



3. Shri Jagdish Prasad, the learned counsel for the petitioner, submits that petitioner was selected as Anganwari Sevika on 10.08.2004 and posted at Govindpur Centre No.54. The Lady Supervisor, inspected the centre on 12.11.2011 after having received complaint before the Child Development Project Officer about the closure of the centre and non distribution of nutritious food. The Child Development Project Officer vide letter No. 169 dated 14.11.2011 issued show cause notice to the petitioner (Sevika) and Rina Kumari (Sahayika) calling upon them to explain about the closure of the centre, non supply of nutritious food and non submission of vouchers amounting to Rs. 1,09,750/-. The petitioner submitted her reply of show cause (Annexure-3) on 22.11.2011 stating that she got abdominal pain on 14.11.2011 and she had gone to the hospital for treatment. On the report of Child Development Project Officer the District Programme Officer vide letter as contained in memo No. 82 dated 03.02.2012 again asked for detailed show cause on five points enumerated therein. The petitioner is said to have filed her reply (Annexure-5) but after perusal of her reply (Annexure-5) the District Programme Officer cancelled the selection of petitioner on 26.05.2012 (Annexure-6) from the post of Anganwari Sevika, Anganwari Kendra, Centre No.54, Block-Sonbhadra, Banshi Surajpur, Arwal. The petitioner preferred appeal and the appellate authority also dismissed the appeal of petitioner on 18.12.2013 (Annexure-9).

4. The learned counsel for the petitioner submits that petitioner was absent for only one day on account of her illness but without hearing the petitioner her selection has been cancelled. The authorities under the rules and directives of selection, under paragraph 10.5 of guidelines, are bound to hear the petitioner before cancelling her appointment as Anganwari Sevika.

5. It is further submitted that the appellate authority also did not



consider the grounds of the petitioner taken by the petitioner in her show cause reply before the District Programme Officer. The petitioner submitted entire vouchers of Rs. 1,09,750/- which would appear from Annexure-7 series, attached with the writ petition.

6. On the other hand, the learned counsel for the State as well the learned counsel for respondent No.7 submitted that, vide Annexure-4, explanation was sought on five points but the petitioner did not submit her explanation. The show cause reply filed by the petitioner (Annexure-5) does not bear any date. From the averments made in paragraph 8 of the petition, it would appear that petitioner herself admitted that she filed show cause on 18.12.2012 in pursuance of the notice given to her vide memo No. 82 dated 03.02.2012 (Annexure-4). The appointment of the petitioner has not been cancelled only on the ground of absence but also on the ground that petitioner committed different irregularities and illegalities and did not distribute nutritious food to the children. It was found that service rendered by the petitioner is absolutely unsatisfactory.

7. It appears that the Lady Supervisor inspected the Anganwari centre run by the petitioner on 12.11.2011 at 12.10 PM. The centre was found closed. The villagers complained that center was not opened. The petitioner received Rs. 1,09,750/- for distribution of nutritious food among the children but the petitioner did not submit any vouchers. On such, the Child Development Project Officer issued show cause to the petitioner vide letter No. 169 dated 14.11.2011 (Annexure-2). Having received the notice, the petitioner, vide Annexure-3, submitted her reply on 22.11.2011 only on the point of closure of the centre as she developed abdominal pain before 12 P.M. and she left the centre for the treatment. The Child Development Project Officer, finding the explanation of the petitioner unsatisfactory, reported the matter to the District Programme



Officer, Arwal and thereupon the District Programme Officer vide memo No. 82 dated 03.02.2012 issued notice to the petitioner on five following points:-

“(i) The villagers complained that centre was not properly run and on inspection by the Lady Supervisor the complaint was found correct.

(ii) Lady Supervisor inspected the centre on 12.11.2011 and found that centre was closed and the complaint with regard to non distribution of food among the children for many months was found correct.

(iii) According to advance register of Child Development Project Officer, Sonbhadra Banshi Surajpur, the petitioner received Rs. 1,09,750/- as advance for distribution of food among the children but the petitioner did not submit any vouchers and the complaint with regard to non distribution of nutritious food was found correct.

(iv) The petitioner did not participate in any meeting held by the Child Development Project Officer and explanation was called for vide letter No. 169 dated 14.11.2011 but the petitioner did not give any proper reply.

(v) The petitioner did not return Rs. 1,09,750/- which was received by her in advance for distribution of nutritious food”.

8. The petitioner, after having received the aforesaid show cause, did not file any reply. The petitioner, of course, brought on record Annexure-5 in order to show that she submitted her show cause reply but it does not bear the date on which the petitioner submitted her show cause reply. From the averments made in paragraph 8 of the writ petition, it appears that petitioner in pursuance of show cause issued to her on 03.02.2012, as contained in memo No. 82, filed her reply on 18.12.2012 but the District Programme Officer passed the order cancelling her selection on 26.05.2012, as contained in memo No. 237. Therefore, the submission of learned counsel for the petitioner that petitioner was not heard



and petitioner submitted her show cause reply in time does not appear to be acceptable at all.

9. From perusal of Annexure-7 series, it appears that petitioner submitted the vouchers in the office of Child Development Project Officer at a very belated stage on 11.07.2013 and on wards. This fact itself shows that, even after repeated reminders to submit vouchers and show cause, the petitioner did not take care of. The appellate authority has taken into consideration the entire facts with regard to non submission of vouchers. The petitioner was reminded vide letter No. 31 dated 04.03.2011, 86 dated 15.06.2011, 169 dated 14.11.2011 and 197 dated 13.12.2011 to submit the bills against the advance taken by her but the petitioner could not be able to show from any documents that she submitted vouchers for purchasing nutritious food for distributing among the children.

10. Therefore, I find that the petitioner’s selection was cancelled not only on the ground of mere absence of one day but the petitioner committed irregularity and illegality in distribution of food and centre was not properly run by the petitioner.

11. Having considered the facts aforesaid and discussion made, I do not find any reason to interfere with the impugned orders. Accordingly, this writ petition is dismissed.

(Prabhat Kumar Jha, J)

BKS/-

AFR/NAFR	NAFR
CAV DATE	N.A
Uploading Date	31.07.2017
Transmission Date	N.A.

