

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10515 of 2008

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Sima Klumari @ Sima Devi, wife of Sri Girendra Singh @ Girendra Kumar Singh, resident of village Dudhala Gadhi, P.O. and P.S. Sonapur, District Saran.

.... Petitioner

Versus

1. The State of Bihar
2. Director, Social Welfare, Government of Bihar, Patna.
3. The District Magistrate, Saran
4. C.D.P.O., Sonapur at Saran
5. Mukhiya, Dudhala Gram Panchayat, Sonapur, District Saran.

.... Respondents

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Appearance :

For the Petitioner : Mr. Murli Manohar Singh, Advocate

For the Respondents : AC to GA 10

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 17-07-2017

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 23.01.2008 (Annexure-5 to the supplementary affidavit) issued by the Director, Social Welfare Department and the subsequent letter dated 07.03.2008 (Annexure-5 to the writ petition) issued by the Child Development Project Officer, Sonapur at Saran by which the petitioner's selection as Anganwari Sevika has been cancelled.

3. Learned counsel for the petitioner submits that the action of the respondents is wholly arbitrary and unsustainable in law. The allegation that '*poshaahar*' had not been distributed on the date of inspection on 11.01.2008 was owing to situation beyond the control of the petitioner. Bank withdrawal was required to be made under the joint signature of the Chairperson, as a new Chairperson Ms. Rinku Devi had been selected after removal of the outgoing Chairperson Ms.



Sony Devi as informed by the petitioner to the concerned bank in her letter dated 17.02.2008 (Annexure-3) with copy to the C.D.P.O., Sonapur at Saran. Similar intimation was also given to the Director, ICDS, Social Welfare Department, (Annexure-2). As a matter of fact, even prior to the inspection conducted on 11.01.2008, the petitioner by her letter dated 26.12.2007 informed the C.D.P.O., Sonapur at Saran regarding difficulty in making bank withdrawals. In course of submission, learned counsel for the petitioner further submits that no show cause notice was issued to the petitioner prior to cancellation of her appointment.

4. Learned counsel for the respondents on the other hand opposes the writ petition submitting that advertisement had been issued in the newspapers and it was clearly informed that wherever it is found that Anganwari Sevikas were not distributing the Take Home Ration, their appointment will be cancelled without issuance of show cause notice.

5. Having heard the parties and on consideration of the materials on record, this Court finds considerable merit in the writ petition. The petitioner's claim that she had written letters to the various authorities with regard to her inability to make bank withdrawals has not been controverted in the counter affidavit which is silent in this regard. There is also nothing in the counter affidavit to indicate that any show cause notice was issued to the petitioner prior to issuance of the impugned action. Learned counsel for the respondents could not demonstrate otherwise. The counter affidavit as



well as the impugned letter dated 23.01.2008 both refer only to the newspaper advertisements which had dispensed with the requirement of the show cause notice. Such action is clearly contrary to law. The fundamental principles of natural justice would require a specific show cause notice to be issued to a person against whom action for termination is contemplated, which, in the instant case, has not been done. The newspaper advertisements as issued are general in nature and cannot be a substitute for a show cause notice to the affected person. Such action is also contrary to the decision of the Division Bench of this Court in the case of *Asha Devi vs. The State of Bihar through District Magistrate, Sheikhpura and others, 2010 (2) PLJR 809* according to which a right of hearing is mandatory.

6. The impugned letters dated 23.01.2008 and 07.03.2008 are accordingly set aside and the writ petition stands allowed. The matter is remitted back to the Director, Social Welfare Department, to pass orders afresh after grant of opportunity to the petitioner of being heard in the matter.

(Vikash Jain, J)

Chandran/BT

AFR/NAFR	NAFR
CAV DATE	N.A.
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