

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5375 of 2014

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1. Smt. Uganta Devi @ Uganta Kumari Wife Of Shailendra Singh, Anganwari
Sevika Centre No.115, Nepura 1, Resident Of Village Nepura, P.S. Silao, District –
Nalanda Petitioner/s

Versus

1. The State Of Bihar through the Director, ICDS, Patna
2. The Director, ICDS Directorate, Government of Bihar, Indira Bhawan, Patna
3. The Deputy Director, Department Of Social Welfare, Government of Bihar,
Patna Division, Patna
4. The District Magistrate, Nalanda at Biharsharif
5. The District Programme Officer, Nalanda at Biharsharif
6. The CDPO, Silao, District Nalanda
7. The State Level Inquiry Team, Training Officer, ICDS, Directorate, Government
Of Bihar, Indira Bhawan, Patna
8. Pinki Kumari, The Present Anganwari Sevika, Centre No.115, Nepura 1, Wife
Of Ripu Kumar Resident Of Village Nepura, P.S. Silao, District - Nalanda
..... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Siyaram Shahi, advocate
For the Respondents : Mr. S. S. P. Yadav, SC 14

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA
ORAL JUDGMENT
Date: 08-08-2017

Heard both sides.

The petitioner has filed this writ petition for quashing the order, as contained in memo No. 3638 dated 05.09.2013, passed by the District Programme Officer, Nalanda (Annexure-12) by which the service of the petitioner has been terminated from the post of Anganwari Sevika. The petitioner further seeks quashing of the order, as contained in Annexure-13, passed in Anganbari Appeal No. 93/2013-14 by which the order of District Programme Officer, as contained in Annexure-12, was confirmed.

Mr. Siyaram Shahi, the learned counsel for the petitioner, submits that the orders impugned are bad on facts as well as on law. One Probationary Officer of ICDS, Patna inspected the Anganbari Centre No. 115, Nepura-1 situated in block, Silao, district, Nalanda on 19.05.2012 and found that the centre was open but only 11 children, out of whom seven were more than six years of



age, were present and no supplementary food was found. The District Programme Officer called upon the petitioner on 13.06.2012 to show cause on the report of the Probationary Officer, ICDS, Patna. The petitioner filed her show cause but the District Programme Officer cancelled the selection of the petitioner from the post of Anganwari Sevika vide order as contained in memo No. 2645 dated 30.06.2012 (Annexure-3). The appeal of the petitioner was also dismissed. Thereafter, the petitioner filed CWJC No. 19918 of 2012 and this court vide order dated 30.07.2013 set aside the order of the District Programme Officer as well as the appellate authority, cancelling the selection of the petitioner from the Anganwari Sevika but at the same time the respondents were directed to initiate fresh proceeding in a manner permissible under law. Thereafter, the District Programme Officer again called upon the petitioner to show cause on the same report. The copy of the report has not been given and similar order dated 05.09.2013 (Annexure-12), cancelling the selection of the petitioner has been passed. The learned counsel for the petitioner submits that from Annexure-1 it would appear that on the date of inspection centre was open and 11 children, out of whom seven were more than six years of age, were present and no other discrepancy was found. The petitioner has stated in her show cause that the inspection was made at 9.30 A.M. and Sevika had gone to collect the children but the District Programme Officer without giving any reason rejected the show cause of the petitioner on the ground that supplementary food was not provided. The food was not prepared in accordance with the menu although these were not found by the Probationary Officer, ICDS, Patna in his report. Therefore, the order passed by the District Programme Officer, cancelling the selection of the petitioner and the order of the appellate authority are not sustainable.

On the other hand the learned counsel for the State and respondent No.8 submits that on the date of inspection many discrepancies were found in



running the centre and after perusing the show cause the District Programme Officer cancelled the selection of the petitioner from the post of Anganwari Sevika. He submits that Anganwari Sevika is not a Government servant and relation between the Anganwari Sevika and Government is an agent and principal and if the agent is found committing illegality and irregularity in execution of the scheme, object of which is to provide food among the poor children and pregnant ladies from preventing mal nutrition, the agent can be removed from the post on that ground alone. He placed reliance upon the judgement in the case of ***Manjula Kumari & Ors. V. the State of Bihar & Ors reported in 2013 (1) PLJR 901.***

Admittedly the petitioner was working as Anganwari Sevika from 1986 on centre No. 115. The centre was inspected on 19.05.2012 by the Probationary Officer, ICDS, Patna. The report of the Probationary Officer, ICDS, Patna is not on record but the District Programme Officer issued show cause to the petitioner stating therein that the Probationary Officer, ICDS, Patna inspected the centre and found the centre open but only 11 children, out of whom seven were more than six years of age, were found present. Supplementary food was not distributed but no other discrepancy was found. The petitioner gave her reply that the centre was inspected at 9. 30 A.M. and Sahaika had gone to collect the children but without assigning any reason for rejection of the show cause reply of the petitioner the District Programme Officer vide Annexure-3 cancelled the selection of the petitioner from the post of Anganwari Sevika on the ground of deficiency in service provided by her to the children. The appellate authority also confirmed the order of the District Programme Officer (Annexure-4) but the petitioner preferred writ petition vide CWJC No. 19918 of 2012 and the writ petition was allowed by order dated 30.07.2013 on the ground that the report of one man committee was vague and that cannot be a basis for termination of selection of the petitioner relying upon the judgement passed in the case of



Manjula Kumari & Ors v. the State of Bihar & Ors (supra) and directed the concerned authority to initiate a fresh proceeding in the manner permissible under law but the District Programme Officer again issued show cause on the same facts and cancelled the selection of the petitioner vide Annexure-12, holding that the petitioner was not providing supplementary food to the children. There was no cleanliness at the centre and the functioning of the centre was unsatisfactory although on these grounds no show cause was asked. The appellate authority also did not consider the grounds of the petitioner and confirmed the order of District Programme Officer vide Annexure-13. Therefore, it appears that the order cancelling the selection of the petitioner is non speaking and passed on extraneous facts on which no show cause was asked and on the same facts earlier selection of the petitioner was cancelled. Therefore, the impugned orders are not sustainable.

Accordingly, this writ petition is allowed and order, as contained in memo No. 3638 dated 05.09.2013, passed by the District Programme Officer, Nalanda (Annexure-12) and the appellate order dated 27.01.2014 passed in Aangabari Appeal No. 93/2013-14 (Annexure-13) are set aside. The concerned authorities are directed to reinstate the petitioner, in accordance with law.

(Prabhat Kumar Jha, J)

BKS/-

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	17.08.2017
Transmission Date	N.A.

