

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.3401 of 2017

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Kiran Kumari W/o Sri Baiju Kumar R/o Village - Charkawa Mahmood, Nichladih,
P.O. + P.S. - Rafiganj, District - Aurangabad.

.... Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Social Welfare Department, Govt. of Bihar, Patna.
2. The Director, Integrated Child Development Scheme Directorate, Bihar, Patna.
3. The Commissioner, Magadh Division, Gaya.
4. The District Magistrate, Aurangabad.
5. The District Programme Officer, Aurangabad.
6. The Deputy Director Welfare, Magadh Division, Gaya.
7. The Child Development Project Officer, Rafiganj, Aurangabad.
8. The Assistant Director, Integrated Child Development Scheme Directorate, Bihar, Patna.

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Rajeev Kumar Singh, Adv.

For the Respondent/s : Mr. Amish Kumar Jha, AC to AAG-8

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

ORAL JUDGMENT

Date: 04-09-2017

Heard Mr. Rajeev Kumar Singh, learned counsel appearing
for the petitioner and Mr. Amish Kumar Jha, AC to AAG-8, for the
State.

The petitioner has prayed for quashing of the order dated
27.3.2012 of the District Programme Officer, Aurangabad, whereby
her engagement as Anganwari Sevika, Centre No. 152, Nonia Tilha
Nagar Panchayat, Ward No.13, Block Rafiganj, in the District of
Aurangabad has been cancelled. The petitioner has also questioned the
order dated 7.3.2014 of the Deputy Director, Welfare, Gaya, whereby
he has dismissed the appeal of the petitioner. The copies of the orders



are impugned at Annexures 1 and 2 respectively to the writ petition. The petitioner has also questioned the selection process which has been issued vide Advertisement No. 02/2016, a copy of which is enclosed at Annexure 3.

Mr. Rajeev Kumar Singh, learned counsel for the petitioner, has invited attention of this Court towards the orders passed in C.W.J.C.No. 394/2017 (**Rubaida Khatoon v. the State of Bihar & ors.**) and C.W.J.C.No. 308/2015 (**Sabita Kumari v. the State of Bihar & ors.**), as contained in Annexures 8 and 9 respectively to the rejoinder filed today, to submit that identical show cause, present at Annexure 5 as well as second show cause, present at Annexure 6 to the present writ petition, was in consideration before this Court and it is considering the vagueness of the allegations so present in the charge that the orders impugned resting thereon has been quashed.

Mr. Amish Kumar Jha, learned AC to AAG-8, for the State while opposing the arguments of Mr. Singh on merits would not dispute that the similar show cause notice was put to question in the writ petition so filed by **Rubaida Khatoon** and **Sabita Kumari**, whose orders have been placed on record vide Annexures 8 and 9 respectively to the rejoinder.

According to Mr. Singh, learned counsel for the petitioner,



the centers were inspected by the team within a span of two hours which by itself is indicative of the seriousness with which whole proceedings have been conducted as well as in the vagueness of the charge present in the show cause impugned at Annexure 5 and 6.

Having heard learned counsel for the parties and considering that the issue in contest has already been debated upon before this Court in the orders relied upon by Mr. Singh, enclosed at Annexures 8 and 9 to the rejoinder, I deem it proper to reproduce the relevant extract of the judgment passed in the case of Rubaida Khatoon:

“ Another glaring infirmity in the proceeding is that the show cause notice does not indicate the nature of irregularities so found and except for sweeping allegation charging the petitioner of indulging in serious irregularities, the petitioner has not been confronted with any specific allegation. Obviously a general allegation has been disowned by the petitioner by a general reply on denial.

The other reason which persuades this Court to draw in favour of the petitioner is that even though there may be some kind of default on the part of the petitioner in keeping the centre operational by following the required procedure and even though the inspection report does indicate some kind of default by the petitioner but it neither indicates a financial default by the petitioner nor the inspection report does indicate that the petitioner is a



perpetual defaulter and that the default was irreversible or reflected a financial misappropriation by the petitioner. The authorities ought to have taken a more pragmatic approach in affording the petitioner opportunity in adopting corrective measures rather than imposing extreme penalty. An extreme penalty is to be imposed in an extreme circumstances and the facts on record does not indicate any such requirement. The petitioner has specifically mentioned in her reply that there is no complaint by the villagers in respect of the centre and the stand of the petitioner has not been confronted with any material.

In the circumstances discussed and taking note of the nature of the irregularities so noticed by the inspection team I am of the opinion that an extremely harsh treatment has been meted out to the petitioner by relieving her of her engagement and as a consequence the order of termination dated 27.3.2012 impugned at Annexure-1 as confirmed by the Appellate Authority vide Annexure-2 cannot be upheld and is accordingly set aside.”

The opinion expressed by this Court in the case of **Rubaida Khatoon** (supra) would apply with all force to the issue in hand and accordingly, the entire proceedings so initiated against the petitioner culminating in the orders, impugned at Annexures 1 and 2, cannot be upheld and are accordingly quashed and set aside. The petitioner is reinstated on her post.



Since the selection process so initiated was made subject to the outcome of the present proceeding vide interim order passed on 5.5.2017, the same is confirmed and the respondents may not proceed with the selection process in so far as Centre No. 152, Nonia Tilha Nagar Panchayat, Ward No.13, Block Rafiganj, in the District of Aurangabad is concerned.

The writ petition is allowed.

(Jyoti Saran, J)

Surendra/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	12.09.2017
Transmission Date	NA

