

**IN THE HIGH COURT OF JUDICATURE AT PATNA**

**Civil Writ Jurisdiction Case No.5717 of 2017**

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Sharda Kumari W/o of Anil Kumar Sah, Resident of Ward No. 8,  
Village+P.O.+P.S.-Parbatta, District- Khagaria.

.... .... Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Department of Social Welfare, Bihar, Patna.
2. The Director, I.C.D.S., Bihar, Patna.
3. The District Magistrate, Khagaria.
4. The District Programme Officer, Khagaria.
5. The Child Development Project Officer, Khagaria.
6. The S.D.O. , Gogari, Khagaria.

.... .... Respondents

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**Appearance :**

For the Petitioner/s : Mr. Rakesh Narayan Singh, Adv.  
For the Respondent/s : Mr. S.K. Mandal, SC-3  
Mr. Bipin Kumar, AC to SC-3

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**CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN**

**ORAL JUDGMENT**

**Date: 20-12-2017**

Heard Mr. Rakesh Narayan Singh, learned counsel for the petitioner and Mr. Bipin Kumar, AC to SC-3, for the State.

With the consent of the parties the writ petition has been heard with a view to final disposal at the stage of admission itself.

The petitioner is aggrieved by the order dated 22.11.2016 of the District Magistrate, Khagaria in Misc. Case No. 19/2016-17, whereby while rejecting the appeal of the petitioner he has confirmed the order dated 7.10.2016 passed by the District Programme Officer, Khagaria in Case No. 34/2016, whereby the petitioner has been removed from the post of Anganbari Sevika, Anganbari Centre No. 197(Mini), Parbatta, Block Parbatta in the district of Khagaria for



alleged irregularities. Copies of the orders passed by the District Magistrate and the District Programme Officer, Khagaria are impugned at Annexures 4 and 3 respectively.

The facts of the case briefly stated is that the petitioner was served with a show cause, a copy of which is placed at Annexure 1, alleging four irregularities, namely:

- (a) The attendance register was not entered for the dates 16.8.2016 and 17.8.2016;
- (b) Poshahar was not ready at the centre;
- (c) The number of children attending the centre was only nine; and
- (d) The centre was not kept in a clean state.

The petitioner filed her reply before the District Programme Officer, a copy of which is at Annexures 2 series, in which she has duly explained each of the allegations. Not being satisfied that the District Programme Officer has cancelled her appointment vide Annexure 3 and which order has been affirmed by the appellate authority i.e. District Magistrate, Khagaria vide Annexure 4. Feeling aggrieved she is before this Court.

In between the selection process has been initiated but is yet in the midway.

I have heard learned counsel for the parties and have



perused the records.

Even though a possible explanation has been given to the petitioner to each of the charges at Annexure 1 but in my opinion, even if the petitioner was found wanting on either of the allegations, at best, she was liable for a warning which would have served the purpose. It is unfortunate that even though there are guidelines issued by the Department of Social Welfare as to the nature of penalties to be imposed proportionate to the default, yet the authorities acting under the guidelines are keeping themselves shut from such advisories. A removal is an extreme measure and is to be taken in extreme situations. Unless the appointee is found guilty of any act which tells upon her integrity or her corrupt state, a mere violation of the statutory procedure, cannot be held a ground for imposing an extreme penalty of removal. The power vested in a statutory authority has to be exercised reasonably and with application of mind and cannot be at whims and preferences. The explanation amply explains the situation and in which circumstance the District Programme Officer should have let off of the petitioner with a stern warning to keep the centre functional in accordance with the statutory requirements, but in absence of any allegation which casts aspersions on the integrity of the petitioner or charges her with corruption or demonstrates that she is a perpetual defaulter, the action taken is extremely harsh and the



orders impugned are examples of abuse of powers.

For the reasons discussed, the order dated 7.10.2016 passed by the District Programme Officer, Khagaria in Case No. 34/2016 and the order dated 22.11.2016 of the District Magistrate, Khagaria in Misc. Case No. 19/2016-17, impugned at Annexures 3 and 4 respectively, cannot be upheld and are accordingly quashed and set aside. The petitioner is restored to her post and as a consequence the selection process whatsoever initiated in respect of the centre in question shall also come to an end.

The writ petition is allowed.

**(Jyoti Saran, J)**

Surendra/-

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