

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.14266 of 2008

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Anita Rai w/o Satyadeo Prasad Yadav, r/v-Methwaliya, P.S. – Chapra Muffasil,
Distt – Saran at Chapra

.... Petitioner/s

Versus

1. The State of Bihar
2. The Secretary, Department of Social Welfare, Govt. of Bihar, Patna
3. The Commissioner, Saran Division, Chapra
4. The Director, I.C.D.S. Department of Social Welfare, Govt. of Bihar, Patna
5. The District Magistrate, Saran at Chapra
6. The District Welfare Officer, Saran at Chapra
7. The District Programme Officer, Saran at Chapra
8. The Deputy Director, Welfare, Saran at Chapra
9. The Sub-Divisional Officer, Sadar Chapra at Chapra
10. The Block Development Officer, Sadar Chapra at Chapra
11. The Child Development Project Officer, Chapra Rural Chapra
12. The Mukhiya Sarha, Gram Panchayat, Block Chapra, Rural Distt – Saran at Chapra

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Krishna Kumar Yadav, Adv.

For the Respondent/s : Mr. Mujtabaul Haque, G.P - 12

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA

ORAL JUDGMENT

Date: 23-01-2017

Heard both sides.

The petitioner in this writ petition prayed for quashing of the order dated 11.09.2007 passed by the District Magistrate, Saran as well the order as contained in memo no. 126 dated 25.09.2007 issued by the Child Development Project Officer, Chapra by which the service of the petitioner was terminated from Aangan Bari Sewika Centre no. – 60 situated in village – Methwalia within Sarha Gram Panchayat and also quashing the order dated 23.06.2008 passed by the Commissioner in Service Appeal No. 456/2007 by which the Commissioner, Saran dismissed the appeal of the petitioner.



The brief facts which are relevant for the disposal of this writ petition are that the petitioner was appointed as Aangan Bari Sewika Centre no. 60 situated in village – Methwalia falling in Sarha Gram Panchayat on 22.01.2004, but Usha Rani Mishra inspected the Aangan Bari Centre no. 60 on 07.10.2005 and found different irregularities. The husband of the petitioner also entered into verbal duel with Usha Rani Mishra the Supervisor of Aangan Bari Sewika and she reported the matter to the District Welfare Officer. Firstly, the petitioner was directed to hand-over the charge from Aangan Bari Kendra no. 60 to Aangan Bari Sewika Kendra no. 65 and after enquiry the service of the petitioner was terminated in pursuance of the order of District Magistrate. C.D.P.O., Chapra issued the letter as contained in memo no. 126 dated 25.09.2007. The petitioner preferred Service Appeal no. 456/2007 before the Commissioner, Saran Division and the same after hearing both sides was dismissed on 23.06.2008.

Learned counsel for the petitioner assailed the orders impugned mainly, on two grounds. It is firstly contended that no occurrence, as alleged by the Supervisor Usha Rani Mishra held on 07.09.2005. Petitioner was asked to show-cause with regard to incident dated 07.09.2005, but later on, some interpolation was made and petitioner was asked to give reply with regard to incident happened on 07.10.2005. It is further submitted that petitioner is a



government employee and her service cannot be terminated without giving show-cause. Petitioner has got protection under Article 311(2) of the Constitution of India, but from perusal of the record it appears that so far as, first submission of learned counsel for the petitioner is concerned, it has got no substance, as it was simply a clerical error. The Supervisor Aangan Bari Kendra Usha Rani Mishra made inspection of Aangan Bari Kendra no. 60 on 07.10.2005 and found different deficiencies in the service rendered by the petitioner. She reported the matter to her higher authorities and in pursuance thereof, the petitioner was asked to show-cause. An enquiry was held and the District Magistrate vide order, as contained in annexure – 11 found the petitioner guilty of dereliction of duty and it was also found that the petitioner and her husband misbehaved with the supervisor and accordingly, directed to terminate the service of the petitioner. The C.D.P.O vide order, as contained in memo no. 126 dated 25.09.2007 (Annexure-13) issued the order of termination. It also appears that the petitioner herself filed her show-cause vide annexure – ‘E’ stating therein that on account of presence of her husband at aforesaid Aangan Bari Kendra on 07.10.2005 some un-seemingly occurrence took place and for that she begged unqualified apology. Therefore, the submission that no such occurrence took place at Aangan Bari Kendra no. 60 on 07.10.2005 cannot be accepted.

So far as second submission, that petitioner is a



government employee and her service cannot be terminated without giving show-cause is concerned, I do not find any merit, the petitioner being Aangan Bari Sewika is an agent of a scheme and she was entrusted to provide food to the children and pregnant ladies for preventing them from malnutrition. The relationship between the petitioner and the State is an agent and Principal, as has already been held by a Division Bench of this Court in a case bearing **LPA 772/2011 (Neetu Kumari Vs. The State of Bihar & Ors) reported in 2011(4)PLJR page 20**, and if any, insufficiency is found in the service of the petitioner, the agency can be terminated. Petitioner is not entitled to get protection under Article 311(2) of the Constitution of India.

Having considered the facts aforesaid, I do not find any merit in this writ petition. Accordingly, the writ petition is dismissed, as devoid of any merit.

(Prabhat Kumar Jha, J.)

Vinita/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	
Transmission Date	

