

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.15491 of 2008

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Kiran Rai wife of Ram Janam Prasad, resident of village Rewata, P.S. Ariyari,
District Sheikhpura

.... Petitioner

Versus

1. The State of Bihar through the Secretary, Social Welfare Department, Govt. of Bihar, Patna.
2. The Commissioner, Munger Division, Munger.
3. The Director, Integrated Child Development Services, Social Welfare Department, Govt. of Bihar, Patna.
4. The District Magistrate, Sheikhpura.
5. The Child Development Project Officer, Ariyari, Sheikhpura.
6. Smt. Sujata Kumari, wife of Sahjanand Mandal, resident of Village Rewata, P.O. Kasar, P.S. Ariyari, District Sheikhpura

.... Respondents

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Appearance :

For the Petitioner : Mr. Uday Bhanu Roy
Mr. Sunil Kumar, Advocates

For the Respondents : AC to SC 17

For Respondent No. 6 : Mr. Ashok Kumar Kashyap, Advocate

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 17-07-2017

Heard learned counsel for the petitioner, learned counsel
for the State and also learned counsel for respondent no. 6.

2. The present writ petition has been filed for the
following reliefs:-

(1) for quashing the order of the District Magistrate,
Sheikhpura contained in Memo No. 111 dated 27.02.2008 (Annexure-
5) whereby and whereunder the services of the petitioner as
Anganbari Sevika for Anganbari Centre, Rewata under Ariyari Block of
the District of Sheikhpura;

(2) for quashing the order dated 18.07.2008 passed by the



Commissioner, Munger Division, Munger in Misc. Appeal No. 08/2008 (Annexure-8) whereby the appeal preferred by the petitioner against the aforesaid order has been dismissed;

(3) for reinstatement of the petitioner in service against the aforesaid post.

3. Learned counsel for the petitioner makes a short submission in support of his contention that the impugned orders of the authorities are wholly arbitrary and unsustainable in law. Prior to the order of termination, the petitioner was not served with a show cause notice and action has been taken without an opportunity of being heard to her.

4. Learned counsel for the respondents, on the other hand, opposes the writ petition. She relies on Annexure-A to the counter affidavit which is letter no. 3023 dated 10.10.2007 issued by the Director, Social Welfare Department to the effect that if any Anganbari Sevika was found to have not distributed the Take-Home Ration then she would be terminated without issuing any 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. There is nothing in the counter affidavit to indicate that any show cause notice was issued to the petitioner prior to issuance of the impugned order. Learned counsel for the respondents could not demonstrate otherwise. The counter affidavit as well as the impugned



letter dated 27.02.2008 both do not mention any provision for dispensing 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. 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 orders dated 27.02.2008 and 18.07.2008 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)

B.T/Chandran

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	21.07.2017
Transmission Date	N.A.

