

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.16926 of 2013

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Smt. Lalita Devi Wife of Shri Sadanand Pathak Resident of Village- Kachahari
Balua, P.S.- Sarsi, District- Purnea.

.... Petitioner

Versus

1. The State of Bihar
2. The District Magistrate, Purnea
3. The District Programme Officer, Purnea
4. The Child Development Project Officer, Banmankhi, Purnea

.... Respondents

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Appearance:

For the Petitioner : Mr. Dilip Kumar Tiwari, Advocate
For the Respondents : Mrs. Anuradha Singh, SC 21

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 14-07-2017

Heard learned counsel for the petitioner and learned counsel for the respondents.

2. The present writ petition has been filed for quashing the order contained in Memo No. 616 dated 25.07.2013 (Annexure-15) passed by the respondent no. 2 rejecting the appeal filed by the petitioner against the order contained in Memo No. 2205 dated 18.08.2012 (Annexure-13) passed by the respondent no. 2 cancelling the selection of the petitioner/removing the petitioner from the post of Anganwari Sevika; and for connected reliefs.

3. The short facts according to the petitioner are that she was appointed on the post of Anganwari Sevika for Kachahari Balua Centre vide letter No. 536 dated 28.03.1982. After training she submitted her joining and had been working on the post to the satisfaction of the authorities ever since. All of a sudden, however, she received Memo No. 677 dated 16.06.2012



calling for an explanation with regard to her alleged absence on 14.05.2012 from the centre which was found closed as stated in an enquiry report. Subsequently, a show cause notice dated 29.06.2012 (Annexure-8) was issued to the petitioner containing similar allegation (the date mentioned as 14.06.2012 is an obvious error), to which the petitioner submitted her reply dated 03.07.2012 denying the allegations. The District Programme Officer, Purnea did not however accept the reply of the petitioner and by the impugned order dated 18.08.2012 (Annexure-13) cancelled the appointment of the petitioner. An appeal preferred by the petitioner before the District Magistrate, Purnea was also dismissed by the impugned order dated 25.07.2013 (Annexure-15).

4. Learned counsel for the petitioner submits that the authorities have acted arbitrarily in passing the impugned orders. It is submitted that the inspection was carried out by the Director (N.E.P.), Purnea by himself, as evident from the show cause notice (Anenxure-8). Learned counsel for the petitioner relies on para 14 of the decision of a co-ordinate Bench of this Court in the case of *Manjula Kumari and others vs. The State of Bihar and others*, reported in 2013(1) PLJR 901, wherein it has been explained that an 'inspection team' necessarily means that it must comprise of more than one person. It is therefore, submitted that the inspection carried out by the Director alone cannot be relied upon, and its sanctity is open to question.

5. Learned counsel for the petitioner further invites attention to letter No. 956 dated 14.03.2012 (Annexure-9) setting out certain guidelines for ensuring consistency in the matter of inspection of Anganwari centres. Para III(4) of the said letter requires that if any statement is taken in course



of an inspection, the same must be of persons whose children are registered in the centre. The instant show cause contains allegations that the centre was found closed on the day of the inspection, and it was supposedly reported by some villagers that the centre was opened only occasionally. It is therefore submitted that the basis for the allegation is vague and unsustainable. On the other hand, the petitioner furnished a number of certificates obtained from various persons such as the Mukhiya, Ward Members, Social Audit Members and numerous beneficiaries of the centre to the effect that the centre in question was being run by the petitioner satisfactorily and that the centre was open on 14.05.2012. It is submitted that all the certificates have been brushed aside without proper reason.

6. Learned counsel for the State opposes the writ petition relying on the counter affidavit filed on behalf of the respondents. Apart from reiterating the allegation against the petitioner, namely that the centre was closed on the date of inspection, learned counsel for the State has not controverted the statements of the petitioner.

7. Having heard the parties and on consideration of the materials on record, this Court finds merit in the writ petition. The show cause notice discloses that the inspection was carried out by the Director alone and not by a team of persons. The inspection report cannot, therefore, be treated as sacrosanct in view of the observations in Manjula Kumari's case (supra). The basis of further allegation that the centre was opened only sometimes is said to be the statement of some villagers. No specific details of a single villager who made such a statement has been provided. Such bald statement does not meet with the requirements of the guidelines III(4) of the letter dated



14.03.2012 (Annexure-9) referred to above. Moreover, the petitioner has admittedly been working at the centre for more than thirty years to the satisfaction of the authorities. Even it be assumed for a moment that the centre was found closed on the date of inspection, the punishment awarded by way of cancellation of her appointment appears to be unduly harsh and unjustified. Reference in this regard may be made to the case of *Punam Kumari vs. the State of Bihar and others*, reported in *PLJR 2011 (3) 140*.

8. The writ petition accordingly stands allowed and the impugned orders contained in Memo No. 616 dated 25.07.2013 (Annexure-15) and Memo No. 2205 dated 18.08.2012 (Annexure-13) are hereby set aside with consequential effect.

(Vikash Jain, J)

Chandran/BT

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