

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.16277 of 2016

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1. Santoshi Kumari W/o Sri Kumar Rajnikant R/o Village and P.O.- Dariyapur,
P.S.- Muffasil, District- Munger, Sahayika Centre No.- 90 Mirzapur Bardah
Munger.

.... Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Social Welfare Department,
Govt. of Bihar, Patna.
2. Director, Integrated Child Development Services (ICDS) Bihar, Patna.
3. District Magistrate cum Collector, Munger.
4. Deputy Director, Welfare Munger Division, Munger.
5. District Programming Officer, Munger.
6. Child Development Project Officer, Munger Gramin, Munger.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Dharendra Nath Jha, Adv.
Mr. Dinesh Kumar Gupta, Adv.
For the Respondent/s : Mr. Kumari Amrita-GP 3
Mr. Rajesh Kumar, A.C. to G.P.3

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

ORAL JUDGMENT

Date: 19-12-2017

Heard Mr. Dharendra Nath Jha, learned counsel for the
petitioner and Mr. Rajesh Kumar, A.C. to G.P.3 for the State.

The petitioner is aggrieved by the order dated 29.07.2016
passed by the District Magistrate, Munger as an Appellate Authority
under the guidelines regulating the Service of Anganbari Sevika/
Sahayika in Service Appeal No. 21 of 2015-16 whereby the appeal
has been rejected on grounds that it was not fit for admission.

Mr. Jha learned counsel has invited the attention of this Court
to Annexure-7 series to submit that at the relevant time when the



appeal was filed, the appellate powers was vested in the Deputy Director, Welfare, Munger Division Munger and before whom the appeal was filed and numbered as Appeal No. 4 of 2013. He submits that the appeal was admitted vide order passed on 08.08.2013 and the appellate authority while admitting the appeal has called for the lower courts record as manifest from the ordersheet. It is submitted that vide amendments introduced in the guidelines, the appellate power stood vested in the District Magistrate and as a consequence the appeal got transferred before the District Magistrate, Munger to be numbered as Appeal No. 21 of 2015-16 and the District Magistrate, Munger without verifying the records of the transferred appeal has on a misconception dismissed the same on grounds that it was not fit for admission even though it stood admitted on 08.08.2013. He further submits that although the Anganbari Sevika removed in a similar manner was restored to her post by the appellate authority who at the relevant time was Deputy Director, Welfare, vide order passed on 14.7.2014 at Annexure-8 but the appeal of the petitioner who is the Anganbari Sahayika for the same Kendra got transferred on change of forum and has been rejected as not fit for admission.

Mr. Rajesh Kumar learned State counsel while not disputing the factual position, has submitted that while the removal of the Anganbari Sevika was on grounds of irregularities, it is on grounds of



absence of the petitioner who is the Sahayika for the Centre, that her appeal was rejected.

Having heard learned counsel for the parties and without entering into the merits of the case the challenge by the petitioner to the order is fit to be upheld because it is proceeding mechanically that the Collector, Munger without verifying the records of the transferred appeal which clearly shows that the appeal in question was admitted by the predecessor in office of the appellate authority on 8.8.2013, has rejected the appeal at the admission stage. The appeal thus having already been admitted on 08.08.2013, a change of forum would not unsettle this position. The matter required a hearing and the Collector, Munger was statutorily bound to dispose of the appeal on merits.

It is next stated by Mr. Jha that the process for appointment of a Sahayika has been initiated for the Kendra in question which has placed on record by enclosing the advertisement in I.A.No.8492 of 2016.

For the reasons discussed, the order dated 29.07.2016 passed by the Collector, Munger in Service Appeal No.21 of 2015-16 is quashed and set aside. The appeal is restored to its file.

The petitioner would appear before the Collector, Munger along with copy of this order on 26.12.2017 at 11 A.M. and when he shall



proceed to dispose of the appeal in accordance with law with opportunity of hearing to the petitioner, who would be at liberty to pray for interim relief as against the selection process initiated for filling up of the post of Sahayika for the Kendra in question and which shall be considered and disposed of by the appellate authority on its own merits.

The writ petition is allowed with the observation/direction aforementioned.

(Jyoti Saran, J)

Bibhash/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	21.12.2017
Transmission Date	NA

