

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

**Civil Writ Jurisdiction Case No.17219 of 2013**

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Baijanti Kumari, Wife of Gaya Prasad Verma, Resident Of Village Shivganj, P.S. :  
Madanpur, District : Aurangabad (Bihar)

.... .... Petitioner

Versus

1. The State of Bihar through the District Magistrate, Aurangabad
2. The District Magistrate, Aurangabad
3. The Assistant Director, Integrated Child Development Scheme Directorate,  
Bihar, Patna
4. The District Programme Officer, Aurangabad
5. The Child Development Project Officer, Madanpur, Aurangabad
6. The Mukhiya, Gram Panchayat Raj, Teldiha, Block: Madanpur, District:  
Aurangabad
7. The Panchayat Secretary, Gram Panchayat Raj, Teldiha, Block: Madanpur,  
District: Aurangabad

.... .... Respondents

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**Appearance :**

For the Petitioner : Mr. Rajendra Pd. Singh, Sr. Advocate  
Mr. Amarendra Kr. Singh, Advocate

For the Respondents : Mr. Anil Kr. Sinha, GA 1  
Mr. Nikhil Kr. Agrawal, AC to GA 1  
Mr. Pawan Kumar, AC to GA 1  
Ms. Aditi Hansaria, AC to GA 1

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**CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN**

**ORAL JUDGMENT**

**Date: 02-11-2017**

Heard learned senior counsel for the petitioner as well as  
learned counsel for the respondents.

2. The present writ petition has been filed for setting  
aside the order dated 18.04.2013 passed in Anganbari Appeal No. 03 of  
2012 by the District Magistrate-cum-Collector, Aurangabad whereby  
and whereunder the said appeal has been dismissed; for setting aside  
the order dated 19.12.2011 passed by the District Programme Officer,  
Aurangabad in Case No. 70/2011 whereby and whereunder the



petitioner has been removed as Anganbari Sevika, Anganbari Centre, Teldiha, (Bhuiyan Toli) Centre, Block Madanpur, District Aurangabad; and for further direction to the respondents to reinstate the petitioner as Anganbari Sevika, Anganbari Centre, Teldiha.

3. Mr. Rajendra Prasad Singh, learned senior counsel appearing on behalf of the petitioner, impugns the order of removal of the petitioner dated 19.12.2011 as well as the appellate order dated 18.04.2013 on certain grounds. It is submitted that the orders travelled far beyond the show cause notice as the petitioner was removed only on the ground that Anganbari Centre was found closed on the date of inspection whereas various other considerations have weighed for removal of the petitioner such as lack of facilities at the Anganbari Centre, and that the register etc. were not produced during the inspection. It is further submitted that the copy of the inspection report was not made available to the petitioner and hence the petitioner was prevented from filing a proper show cause reply in her defence. It is also submitted that the inspection carried out by the Assistant Director, ICDS did not conform the requirements of the inspection to be carried out by a team and further that the petitioner has been removed on the recommendation of the Assistant Director, ICDS for removal which is contrary to the observations of this Court in *Manjula Kumari Vs. The State of Bihar & Ors in 2013 (1) PLJR 901*.

4. Mr. Nikhil Kumar Agrawal, learned counsel appears



for the respondents and has been heard. He opposes the writ petition, submitting that non-consideration of the inspection report has not caused any prejudice to the petitioner and in any event, such ground has not been raised by her at any stage before the authorities. It is further submitted that the petitioner being an Anganbari Sevika does not have constitutional protection under Articles 309 and 311 of the Constitution of India.

5. Having heard learned counsel for the parties and on a careful consideration of the materials available on record, this Court finds considerable merit in the writ petition. It is not in dispute that the show cause notice required the petitioner to file show cause only on the allegation that Anganbari Centre was found closed on the date of inspection whereas the impugned order and the appellate order have taken various other materials into consideration far beyond the show cause notice. It is also not in dispute that a copy of the inspection report was not made available to the petitioner to enable her to file a proper reply. It is further admitted fact on record that the inspection itself was carried out by the Assistant Director, ICDS who recommended for removal of the petitioner.

6. In the above circumstances, the impugned order dated 19.12.2011 passed by the District Programme Officer, Aurangabad in Case No. 70/2011 as well as the appellate order dated 18.04.2013 passed in Anganbari Appeal No. 03 of 2012 by the District



Magistrate-cum-Collector, Aurangabad are hereby quashed. The matter is remitted to the District Programme Officer, Aurangabad (respondent no. 4) for taking a fresh decision in accordance with law and after grant of opportunity of hearing to the petitioner.

7. The writ petition stands allowed as above.

**(Vikash Jain, J)**

B.T/-

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