

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.12713 of 2010

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Sunita Sinha, wife of Sri Binay Kumar, resident of Village- Belaua, P.S. Rajgir,
Distt.- Nalanda

.... Petitioner

Versus

1. The State of Bihar
2. Director, Social Welfare, Government of Bihar, Patna
3. Joint Secretary, Social Development Department, Bihar, Patna
4. Collector, Nalanda
5. District Programme Officer, Nalanda
6. Child Development Project Officer, Rajgir, Nalanda
7. Panchayat Sachiv, Gram Panchayat Raj Nahub P.S.- Rajgir, Distt.- Nalanda
8. Mukhia, Gram Panchayat Raj Nahub, P.S. Rajgir, Distt.- Nalanda

.... Respondents

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Appearance :

For the Petitioner : Mr. Mahesh Prasad No.2,
Mr. Rewti Kant Raman, Advocates.

For the Respondents : Mr. H.S. Sundaram, AC to SC-8

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 31-07-2017

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

2. The present writ petition has been filed for quashing
the order dated 17.04.2010 passed by Collector, Nalanda in Misc.
(Anganwari) Case No. 5/10 by which he has dismissed the case filed by
the petitioner and affirmed the order contained in Memo No. 551
dated 06.11.2009 passed by the District Programme Officer, Nalanda
by which he has terminated the service of the petitioner from the post
of Anganwari Sevika of Belaua Anganwari Centre No. 45 of Gram
Panchayat Raj Nahub within Rajgir Block within the District of
Nalanda.



3. The short facts according to the petitioner are that she was selected in the year 1988 for appointment as Anganwari Sevika and since then she has been discharging her duties to the satisfaction of the authorities. During a visit of the Child Development Project Officer on 25.07.1992, she was directed to run the Centre at Harijan Toli and accordingly she started running the Centre in the house of Kameshwar Manjhi. Later on the Centre was shifted to the house of Chhotu Choudhary, but she faced considerable resistance and threats from some local people who obstructed the smooth running of the Centre. Mukhiya of the Gram Panchayat then asked the petitioner to run the Centre in her house in view of the local persons creating difficulty in running the Centre. It is further stated that since the last month of 2006, the petitioner has been running the Centre in the house of Bidya Binod Kumar when once again on 04.11.2009 some persons came to the house of the petitioner and threatened to kill her if the Centre was not run in the Community Hall of Mushahar Toli. Inasmuch as the concerned Police Station did not entertain her application in this regard, the same had to be sent by post on 30.11.2009 and finally Complaint Case No. 1442 of 2009 was filed by her in the Court of Chief Judicial Magistrate, Nalanda. The petitioner received a show cause notice dated 06.11.2009 from the office of the Child Development Project Officer, Rajgir alleging that the Centre was not being run from the proper place. The petitioner filed her reply on the same day but however the same was not accepted and the impugned order dated



06.11.2009 was passed by which the petitioner's services were terminated.

4. Learned counsel for the petitioner submits that the impugned order is wholly arbitrary and is liable to be set aside. In her show cause reply, she had duly stated that members of various communities including Dalit, Maha Dalit, Extremely Backward and Backward Classes were the beneficiaries of the Centre and such averments has also been made in para-14 of the writ petition, which have not been specifically denied by the respondents. An extract of the attendance register of the children in the Centre was also enclosed to show that there were many children from the said communities who were enrolled in the Centre. Learned counsel for the petitioner agitated that the impugned order has been passed in a *mala fide* manner by imputing allegations against the petitioner to the effect that no children of the Mushahar Toli were enrolled in the Centre, which is clearly an error of fact. The order of termination passed by the District Programme Officer has been affirmed by the Collector in the appeal filed by the petitioner and the appeal was dismissed.

5. Learned counsel for the respondents, on the other hand, has resisted the writ petition, submitting that no fault can be found with the orders passed by the authorities. It is submitted that the so-called extract of the attendance register relied upon by the petitioner is in fact a fabricated document inasmuch as it relates to the month of November, 2009 and it shows entries made up to 21st of



November, 2009 whereas the petitioner had been terminated on 06.11.2009 itself. There was thus no occasion for the petitioner to run the Centre much less maintain the attendance register after her termination. It is further submitted that the written complaint dated 30.11.2009 claimed to have been sent by post to the Superintendent of Police, Nalanda (Annexure-4) is again a created document and the result of an afterthought. This purported letter has also been signed on 30.11.2009 much after the petitioner was terminated on 06.11.2009, with obvious ulterior motive.

6. Having heard the parties and on a consideration of the materials on record, this Court finds the writ petition to be devoid of any merit, even frivolous. The petitioner has not disputed the fact that she was running the Centre from her home. It is also not a case where the impugned order has been passed without issuing show cause or an opportunity of hearing. The petitioner has duly participated in the proceeding by filing her reply to the show cause notice on 06.11.2009 (Annexure-5). A perusal of para-3 of her show cause reply discloses that the petitioner has clearly suggested that the children of Mushahar Toli were not enrolled at the Centre and learned counsel for the petitioner was unable to explain how, in recording the petitioner's statement to a similar effect in his order, the learned District Magistrate had committed any error of record. The petitioner was duly granted personal hearing as evident from the impugned order and which has also not been denied by the petitioner. This Court also



finds substance in the submission of the learned counsel for the respondents with regard to the doubtful nature of documents relied on by the petitioner such as the extract from the attendance register for the month of November, 2009 which has been maintained up on 21st of November, 2009 beyond the date of termination of the petitioner, as well as the complaint dated 30.11.2009 said to have been sent to the Superintendent of Police, Nalanda which is also after the termination of the petitioner. This Court does not sit in appeal over the decisions of the authorities and the scope of judicial review in such matters is restricted to ensuring fair procedure. In the instant case, the petitioner has been issued a show cause notice to which she has replied and has also been personally heard. This Court does not find any infirmity in the impugned orders passed by the authorities.

7. The writ petition is accordingly dismissed with costs of Rs. 2,000/- to be paid by the petitioner. Pending interlocutory application, if any, also stands disposed of.

(Vikash Jain, J)

Md. Ibrarul/Chandran

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

