

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14334 of 2013

=====

Usha Devi Wife Of Suresh Rai Resident Of Village Sursand P.S. Sursand District
Sitamarhi

.... Petitioner

Versus

1. The State Of Bihar Through Secretary, Welfare Department Government Of Bihar, Patna
 2. The Director, Integrated Child Development Service Directorate Bihar, Patna
 3. The Commissioner Tirhut Division, Muzaffarpur
 4. The District Magistrate Sitamarhi
 5. The District Program Officer, Sitamarhi
 6. The District Welfare Officer, Sitamarhi
 7. The Child Development Officer, Sursand District Sitamarhi
 8. The Mukhiya Gram Panchayat Raj Sursand- 3 Sursand District Sitamarhi
 9. The Panchayat Secretary Gram Panchayat Raj Sursand North P.S. Sursand District Sitamarhi
- Respondents
- =====

Appearance :

For the Petitioner/s : Md. Waliur Rahman, Adv.
Mr. Nishant Kumar Sinha, Adv.

For the Respondent/s : Mr. Y.P.Sinha, AAG-7
Mr. Shankar Kumar, AC to AAG-7

=====

CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

ORAL JUDGMENT

Date: 24-05-2017

Heard Mr. Md. Waliur Rahman, learned counsel appearing

for the petitioner and Mr. Shankar Kumar, AC to AAG-7, for the

State.

In the nature of the order which this Court purposes to pass it

would not be required to deal with the merits of the case.

The facts of the case briefly stated is that the petitioner, who
was appointed as Anganwari Sevika, Anganwari Centre No. 95, under
Panchayat Raj Sursand North in the District of Sitamarhi, was
dismissed from service vide order bearing memo No. 247 dated
29.3.2012 of the District Programme Officer, Sitamarhi, a copy of
which is present at Annexure 5/1 to the writ petition, on the ground of



alleged irregularities and which was appealed by the petitioner before the Collector, Sitamarhi in Anganwari Case No. 33/2012 but the appeal was dismissed on 24.4.2012 on the ground of maintainability by the Collector. The petitioner went in revision and which has been dismissed by the Commissioner vide order passed on 17.9.2012 at Annexure 8 again as not maintainable.

Mr. Rahman, learned counsel for the petitioner, submits that the order of the Collector in dismissing the appeal by one line order is unsustainable in law.

Having heard learned counsel for the parties, this Court is in full agreement with the submissions advanced on behalf of the petitioner that an order passed by an authority performing quasi judicial functions, has to be reflective of his opinion on the subject. The Anganwari Sevika and Sahayika Guidelines which was in force at the relevant time, at Clause 10.6 vests jurisdiction in the Collector to hear the appeal against the order of termination passed by the District Programme Officer and pass appropriate order after giving opportunity of hearing to the contesting parties.

In view of the legal position existing, as discussed above, although the order of the Commissioner in holding the revision not maintainable vide order dated 17.9.2012 does not suffer any infirmity but the order of the Collector, Sitamarhi at Annexure 6 is unsustainable because the appeal was much maintainable before him



in terms of Clause 10.6 of the Guidelines.

In the circumstances, the order of the Collector dated 24.4.2012 impugned at Annexure 6 passed in Anganwari Case No. 33/2012 is quashed and set aside. Anganwari Case No. 33/2012 is restored to its file and the matter is remitted back to the Collector, Sitamarhi to consider and dispose of the same in accordance with law and after giving opportunity of hearing to the contesting parties within a period of three months from the date of receipt/ production of a copy of this order.

It is stated by Mr. Rahman that the appellate forum has undergone a change under Amendment 2016. The Collector, Sitamarhi would be well advised to consider the statutory guidelines as regarding appropriate appellate forum and take necessary steps accordingly for disposal of the appeal by the appropriate forum.

It goes without saying that the appellate forum, would be bound by the period stipulated for its disposal.

The writ petition is allowed with the directions aforementioned.

(Jyoti Saran, J)

Surendra/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	19.06.2017
Transmission Date	NA

