

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.17014 of 2013

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Smt. Krishnamati Devi, Wife of Sri Vimal Ghosh, Resident of Village-
Manoharpur Kachhuara, P.S. Gopalpur, District Patna

.... Petitioner

Versus

1. The State of Bihar through its Secretary
2. The Director Social Welfare (I.C.D.S.) Govt. Of Bihar, Patna
3. The Deputy Director, I.C.D.S. Directorate, Bihar, Patna
4. The Divisional Commissioner, Patna, Bihar
5. The District Magistrate, Patna
6. The District Programme Officer, Patna, Bihar
7. The Child Development Project Officer, Punpun, Patna

.... Respondents

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Appearance :

For the Petitioner : Mr. Dudh Nath Singh,
Mr. Krishna Ranjan, Advocates

For the Respondents : Mr. Vasant Vikas, AC to SC 23

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 11-09-2017

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

2. The present writ petition has been filed for quashing
the order dated 28.04.2012 passed in Case No. 57 of 2012 by the
learned District Programme Officer, Patna as well as appellate order
dated 09.07.2013 passed by the Director, Social Welfare Department
by which he has affirmed the same and not interfered with the order of
the District Programme Officer Patna and communicated to the
petitioner vide memo no. ICDS/30025/91-2013/3419 dated
11.07.2013; and for connected reliefs.

3. Learned counsel for the petitioner makes a short



submission to assail the impugned orders to the effect that since inspection was made by the State Level Team at *Anganwari* Centre of the petitioner which comprises of only one person, namely, Director, ICDS, it cannot be treated as a valid inspection. The entire proceeding based on such invalid inspection is therefore vitiated. Reliance is placed upon the decision of this Court reported in *2013(1) PLJR 901 (Manjula Kumari & anr. Vs. The State of Bihar & ors.)*.

4. Learned counsel for the respondents appears and has been heard. He has not been able to controvert the stand of the petitioner with regard to the inspection carried out only by the Director, ICDS.

5. Having heard learned counsel for the parties and on careful consideration of the materials available on record, this Court finds merit in the writ petition. This Court considered this aspect of the matter in *Manjula Kumari's case (supra)* and it was held in paragraph 14 of the judgment which is as follows –

“14. The word “Team” for a “State Level Inspection” presupposes participation by more than one person. There is no definition of the term in the guidelines. If the term consists of more than one person there is an automatic check and balance as distinct from individual assessment. The guidelines do not provide for a copy of the inspection report to be given. The report is a fait accompli. Opportunity to persuade that the report was not correct or that she had an explanation with regard to the irregularities alleged is denied. Accepting the ex prate



report as gospel truth the Director on 24.8.2011 orders the District Programme Officer to terminate. If the Director superior in rank issues instructions for cancellation to the District Programme Officer it is difficult to appreciate what independence or discretionary powers are left with the District Programme Officer. Administrative discipline requires him to comply the directions of the superior. The show cause notice issued by him states that he has received directions from the Director to terminate and then seeks cause to be shown. The termination order likewise refers to the recommendation by the State Level Inspection Team and the directions for termination issued by the Director. The lack of independent exercise of power is apparent when the District Programme Officer notices the objection that the changed timings for running the centre was not informed to the Agents, but declines to decide the same.”

6. That apart, it also appears that the Director, ICDS recommended for removal of the *Anganwari Sevika* in view of the alleged irregularities found at the Centre. The judgment in *Manjula Kumari’s case (supra)* also addresses this aspect of the matter and observed in paragraphs 22 and 27 as follows –

“22. The submission on behalf of the State that the Director only forwarded a proposal to the District Programme Officer and that the discretion of the District Programme Officer remained unhindered is too unrealistic for the Court to accept applying the standards of an ordinary reasonable and prudent person. The Director



being superior in rank to the District Programme Officer, the Court finds it very difficult to accept that the District Programme Officer has the administrative authority and shall dare to differ with the report of a State Level Inspection Team forwarded to him through the Director with instructions to terminate.

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27. On 20.3.2012 an amendment has been made in Clause 10.7 providing for an Appeal against the order of the District Programme Officer before the District Magistrate and then within a further period of 30 days before the Director. The District Magistrate sitting in Appeal over the order of the District Programme Officer is likewise not free from the fetter of the conclusive opinion of the Director. There shall be a tendency in the District Magistrate also to uphold the order. If the Director at the initial stage accepted the report as a gospel truth and issued directions for cancellation it is difficult to understand what fairness and reasonableness the Director will exercise against his own order when it travels to him in Appeal routed through the District Magistrate."

7. In the above circumstances, this Court is of the view that the order of removal of the petitioner as well as the appellate order are vitiated and cannot be sustained in law and are accordingly set aside. The writ petition stands allowed with liberty to the respondents to proceed against the petitioner afresh in accordance with law, if so advised.



(Vikash Jain, J)

B.T/Ibrar

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