

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.2877 of 2016

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Rani Devi wife of Sri Uday Shankar Jha, resident of village Asoi Lakshiram, P.S. Bhagwanpur, District Vaishali

.... Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Department of Social Welfare, Patna
2. The Director, Integrated Child Development Scheme, Bihar, Patna
3. The Divisional Commissioner, Tirhut Division Muzaffarpur
4. The Collector, Vaishali, Hajipur
5. The District Program Officer, Hajipur, Vaishali
6. The Child Development Project Officer, Bhagwanpur, Vaishali, Hajipur
7. The Mukhiya, Gram Panchayat Asoilakshiram Gram Panchayat P.S. Bhagwanpur, District- Vaishali
8. The Secretary, Gram Panchayat, Asoi Lakshi Ram, P.S. Bhagwanpur, District Vaishali
9. Savita Kumari wife of Pramod Kumar Singh, resident of village Asoi Lakshiram, P.S.- Bhagwanpur, District- Vaishali

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Surya Kant Mishra, Adv.

For the Respondent/s : Mr. Mahendra Prasad Verma, AC to SC-20

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

ORAL JUDGMENT

Date: 13-03-2018

Despite service of notice respondent no.9 has not chosen to appear.

Heard Mr. Surya Kant Mishra, learned counsel for the petitioner and Mr. Rajendra Prasad Verma, learned AC to SC-20, for the State.

With the consent of the parties and in the circumstances noted the writ petition has been heard with a view to final disposal at the stage of admission itself.

A rather peculiar set of circumstances accompanies the



present writ petition. Feeling aggrieved by the inaction of the District Magistrate cum Collector, Vaishali in not giving effect to the order of remand passed by the Commissioner, Tirhut Division, Muzaffarpur in Service Appeal No. 241/2011 that the writ petition was filed and it is during the pendency of the writ petition that the orders have been passed by the District Magistrate cum Collector, Vaishali to drop the proceedings in absence of the private respondent. The order sheet including the order passed on 2.5.2017 has been placed on record vide Annexures- A series to the counter affidavit filed in the present proceedings.

The facts accompanying the writ petition stand noted in the order of this Court passed on 5.2.2018 and to state briefly, the appointment of the Anganwari Sevika, Centre No. 115, Asoilakshiram Gram Panchayat in the district of Vaishali was questioned by the private respondent. The peculiarity of challenge is that even though the challenge was set up against the Sevika for Centre No. 115 but the private respondent erroneously arraigned the petitioner who was appointed for Centre No. 116. Surprisingly none of the statutory authorities before the Collector clarified this confusion to inform that the petitioner had been wrongly arraigned in the dispute.

The Collector, Vaishali taking note of the alleged irregularities complained of by the private respondent in respect of



appointment of Anganwari Sevika for Centre No. 115 quashed the appointment of Anganwari Sevika and since it was the petitioner which was arraigned as opposite party that it was treated as the order passed against her. As a consequence of the order and even though legally it was the appointment to Centre No.115 which was put to question but the petitioner appointed for Centre No.116 was not allowed to perform her duty which remained closed.

Feeling aggrieved by the order of the Collector that while private respondent preferred Appeal No. 241/2011, the petitioner filed Appeal No. 126/2011 and the Commissioner, Tirhut Division taking note of the confused state of affairs in paragraph-7 of his order, a copy of which is enclosed at Annexure 5, remitted the matter to the District Magistrate cum Collector, Vaishali for fresh disposal after hearing the parties. On remand the matter was considered by the Collector, Vaishali and since the private respondent did not chose to press the application that the proceeding was dropped.

The grievance of the petitioner is that the proceedings so initiated had already done the damage because since after passing of the order by the Collector, Vaishali in quashing the appointment of Sevika, Centre No. 115, it is the petitioner who was not allowed to function on her post at Centre No. 116.

This Court taking note of abdication of responsibility by



the District Programme Officer and other authorities under Scheme under which these posts have been created issued notice to the private respondent, who though served has not chosen to appear.

Having heard learned counsel for the parties and in the circumstances discussed, it is only a formality for me to hold that the respondents have committed a serious blunder in not allowing the petitioner to function in pursuance of the order dated 1.6.2011 passed by the Collector, Vaishali bearing Memo No. 128 dated 8.6.2011. It is difficult to comprehend that an order of cancellation of appointment of the Anganwari Sevika/ Sahaika, Centre No. 115 has been applied against the petitioner simply because she was arraigned as a party even though she was appointed for Centre No. 116. The action of the authorities in not clarifying the position before the Collector, Vaishali in Case No. 117/2010-11 rather prohibiting the petitioner from discharging her duties as Anganwari Sevika for Centre No. 116 is wholly illegal.

It is rather unfortunate that even though the default is admitted by the respondents in the counter affidavit filed on 17.1.2018 more particularly the statement in paragraph 6, wherein it is admitted that the appointment of the petitioner for Centre No. 116, has been terminated by virtue of the order passed by the Collector. This only speaks of the casual manner in which the duties and obligation are



being discharged by the respondent authorities. Since the order of the Collector dated 1.6.2011, a copy of which is impugned at Annexure 4 to the writ petition, does not quash the appointment order of Anganwari Sevika appointed for Centre No. 116 held by the petitioner, the petitioner could not have been restrained from functioning against the post.

In the circumstances discussed, the petitioner stands restored to her post and respondents no. 4 and 5 i.e. the District Magistrate cum Collector, Vaishali and the District Programme Officer, Vaishali are directed to ensure that the petitioner is allowed to function and discharge her duties as Anganwari Sevika, Centre No. 116, with immediate effect and not later than two weeks from the date of receipt/ production of a copy of this order.

Let a writ of mandamus be issued accordingly.

The writ petition is allowed.

(Jyoti Saran, J)

Surendra/-

AFR/NAFR	AFR
CAV DATE	NA
Uploading Date	16.03.2018
Transmission Date	NA

