

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.16430 of 2016

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Usha Raman, W/o Rama Nand Prasad Raman R/o village - Bhura, P.S. Tribeniganj, District - Supaul Presently disengaged Anganbari Sevika of Pathragodhey Panchayat Anganbari Centre Code No. 21 Under Child Development Project Tribeniganj, District - Supaul

.... Petitioner/s

Versus

1. The State of Bihar
2. The Director, Social Welfare Deptt. Govt. of Bihar, Patna
3. The Integrated Child Development Services Directorate Indira Bhawan, Patna
4. The Divisional Commissioner, Kosi Division, Saharsa.
5. The Deputy Director, Welfare Kosi Division, Saharsa.
6. The District Magistrate, Supaul.
7. The District Programme Officer, Supaul.
8. The Child Development Project officer, Tribeniganj, District – Supaul.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Chandra Bhushan Das, Adv.

For the Respondent/s : Mr. K.K. Jha- AAG14

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

ORAL JUDGMENT

Date: 26-06-2018

Heard Mr. Chandra Bhushan Das learned counsel for the petitioner and Mr. Manish Kumar AC to AAG-6 for the State.

The petitioner is an Anganbari Sevika for Centre No. 21, Pathragodhey Panchayat in the District of Supaul. Her services has been terminated following the inspection report of the District Magistrate, Supaul enclosed at Annexure-1, reporting irregularities in the management and conduct of the centre vide order bearing Memo No. 83 dated 24.01.2011 of the District Programme Officer, Supaul impugned at Annexure-4 which has been confirmed by the District



Magistrate, Supaul while rejecting the appeal of the petitioner bearing No. 1 of 2011 vide order bearing Memo No. 716 dated 12.07.2011 impugned at Annexure-6. The peculiarity of the contest is that on a mistaken legal advice and even though no further legal recourse is provided against the appellate order passed by the District Magistrate that the petitioner approached the Commissioner of the Division who in turn assigned the matter to the Deputy Director, Welfare stated to be an authority sub-ordinate to the District Magistrate and who vide order passed on 10.08.2015 impugned at Annexure-9 has confirmed the order passed by the District Magistrate.

I have heard learned counsel for the parties and perused the records.

The brief argument advanced by Mr. Das to contest the orders impugned is:

- (i) While the centre operates from 8 A.M to 12.00 noon as supported from the information supplied under the Right to Information Act at Annexure 10, the enquiry was conducted by the District Magistrate, Supaul thereafter.
- (ii) The allegations so noted in the inspection report of the District Magistrate at Annexure-1 has though been suitably explained by the petitioner vide Annexure- 3 but neither the District Programme Officer vide Annexure- 4



nor the District Magistrate vide Annexure-6, while upholding the allegations, has bothered to deal with the same; and

- (iii) Each of the orders impugned at Annexures-4 and 6 respectively mechanically rejects the explanation as not being satisfactory without assigning reasons.

Despite attempt made by Mr. Manish Kumar learned State counsel to defend the action, in my opinion the orders impugned are defenceless for they are non speaking, mechanical in nature and none of the statutory Authorities have bothered to meet the explanation given by the petitioner in contest of the allegation and in defence of her own actions. Reference is made to a judgment of the Supreme Court reported in **(2010) 9 SCC 496 (Kranti Associates (P) Ltd. v. Masood Ahmed Khan)** more particularly paragraph 14 to 47 wherein the Supreme Court taking note of its earlier views reminding the authorities performing quasi judicial functions of their duties to assign reasons while dealing with such matter, has laid down guidelines but it eludes the wisdom of the respondents.

On this short note that the orders impugned herein are non speaking and neither the District Programme Officer nor the District Magistrate while the passing orders impugned at Annexure- 4 and 6 have bothered to deal with the explanation given by the petitioner at



Annexure-3 nor have assigned reasons for imposing the extreme penalty of termination, the orders are cannot be upheld and accordingly, the order bearing Memo No. 83 dated 24.01.2011 of the District Programme Officer, Supaul impugned at Annexure-4, order bearing Memo. No. 716 dated 12.07.2011 passed by the District Magistrate impugned at Annexure- 6 as well as the 2nd order bearing Memo 1224 dated 14.08.2013 of the District Magistrate impugned at Annexure-8 confirming the position cannot be upheld and is accordingly quashed and set aside. Since the order passed by the Deputy Director, Welfare impugned at Annexure-9 is without jurisdiction, the same is quashed and set aside. The petitioner is restored to her post.

The writ petition is allowed.

(Jyoti Saran, J)

Bibhash

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	07.07.2018
Transmission Date	NA

