

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.5432 of 2011

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Renuka Kumari, Wife of Aditya Kumar Rai, Village - Harpur Aloth, Police Station
- Musri Gharari District - Samastipur

.... Petitioner

Versus

1. The State Of Bihar
2. The Principal Secretary, Social Welfare, Department Government of Bihar, Patna
3. Director, I.C.D.S. Directorate, Govt. of Bihar, Patna
4. Commissioner, Darbhanga Division, Darbhanga
5. The Collector, Samastipur District - Samastipur
6. The District Welfare Officer, Samastipur, District Samastipur
7. The Child Development Project Officer, Samastipur, (Rural) District - Samastipur
8. The Panchayat Secretary, Harpur Aloth, District - Samastipur
9. The Mukhiya, Gram Panchayat Raj Harpur Aloth, District - Samastipur
10. Smt. Kamlesh Kumari, Wife of Sri Jitendra Kumar Rai, Village - Harpur Aloth, P.O. Harpur, Police Station - Musarighari, District - Samastipur

.... Respondents

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Appearance:

For the Petitioner/s : Ms. Poonam Kumari, Advocate.

For the Respondents-State: None.

For the Respondent no. 10: None.

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD

ORAL JUDGMENT

Date: 31-01-2018

Prima facie this Court is satisfied that a discrimination has been done in the matter of removal of this petitioner.

2. Learned counsel for the petitioner has pointed out some of the orders passed by the District Magistrate, Samastipur, as contained in Annexure-5 from which it appears that even though there were similar allegations with regard to Anganwadi Sevikas of some other Centres in the same Panchayat, they have been allowed to continue by either giving some warning or on deduction of one



month's honorarium in their case.

3. Learned counsel has further pointed out that from Annexure-9, which is the order dated 17.03.2010 passed by a co-ordinate bench of this Court in CWJC No. 18206 of 2009, it would appear that this Court had directed the District Magistrate to consider the representation of the petitioner and the same was required to be considered in accordance with law. He was also required to consider the issue of hostile discrimination. After passing of the said order, the District Magistrate, Samastipur once again passed an order on 24.05.2010/18.06.2010 (Annexure-10) but the representation of the petitioner was rejected only on the ground that a fresh selection has already been done for the said Centre. The District Magistrate has not at all considered the submission of the petitioner that it was a case of hostile discrimination and fresh selection in respect of Centre No. 72 was done in haste. The order passed by the District Magistrate, as contained in Annexure-10, nowhere shows the reason for taking a different view in the matter of this petitioner while considering of the four cases together on the same allegations.

4. Learned counsel submits that the Commissioner, Darbhanga Division rejected her appeal vide order dated 18.01.2011, as contained in Annexure-11, without considering the grounds raised in the appeal.



5. It is the submission of the learned counsel that while it is true that the scope of judicial review in such cases is very limited but in the facts of this case where the petitioner has specifically pleaded hostile discrimination in the matter of award of punishment to the petitioner and this aspect of the matter was raised at the earliest opportunity which will be evident from the order passed by this Court vide Annexure-9, the District Magistrate, Samastipur was obliged to consider the case of the petitioner. He submits that the word 'Satisfaction' is not a word of magic and a public authority while dealing with identical or similar cases cannot be allowed to take one view in respect of one delinquent and another view in respect of another delinquent if the allegations are same and similar.

6. A Counter Affidavit has been filed on behalf of Child Development Project Officer, Samastipur (Rural). There is no plausible reason provided in the Counter Affidavit as regards the discrimination in the matter of removal of this petitioner. The C.D.P.O. has only stated that all the Anganwadi Sevikas were punished according to the charges levelled against them and no any discrimination has been done in the order of the District Magistrate, Samastipur. Respondent no. 10, who has appeared in this case pursuant to notice, has taken a plea that the appointment of the petitioner was done by adopting a wrong process.



7. Neither learned counsel for the State nor the learned counsel representing the respondent no. 10 are present.

8. After hearing the learned counsel for the petitioner and upon perusal of the records I am of the considered opinion that the District Magistrate, Samastipur while considering the representation of the petitioner has not at all considered the issue of hostile discrimination. The District Magistrate was obliged to look into the allegations which were made against other Anganwadi Sevikas of the Centres falling within the same Panchayat and if the allegations against them were same as that of the allegations, which have been made against this petitioner, he was again obliged to take a consistent view in the matter of imposition of punishment whether it is by way of removal, by warning or by stoppage of one month's honorarium. Apparently, Annexure-10 dated 18.06.2010 nowhere indicates such consideration.

9. The appeal preferred before the Commissioner, Darbhanga Division by the petitioner has been rejected without looking into the appeal only on the ground that the District Magistrate, Samastipur has passed the order in compliance of the order of the Hon'ble High Court.

10. Thus, to me it appears that both Annexure-10 and Annexure-11 are the orders which have been passed without



considering the submissions of the petitioner and the relevant materials which were available on the record. Both the impugned orders are, therefore, set aside and a direction is issued to the District Magistrate, Samastipur to call for the records of all other similarly situated case of Anganwadi Centers which had fallen for consideration on earlier occasion and, if it is found, that the petitioner has been able to show that in similar allegations others have been retained as Anganwadi Sevikas the petitioner shall also be retained without any discrimination. In such situation, the respondent no. 10 will have to vacate the Centre as Anganwadi Sevika.

11. It is made clear that before passing final order a chance of hearing shall also be given to the respondent no. 10.

12. The entire exercise must be completed within a period of three months from the date of receipt / production of a copy of this order.

13. The Writ Application stands disposed of accordingly.

(Rajeev Ranjan Prasad, J)

Dilip, AR

AFR/NAFR	NAFR
CAV DATE	N/A
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