

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.14824 of 2014**

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Sunaina Devi Wife of Vijay Kumar Resident of Village - Jamuni, Post -  
Chechadi, P.S. - Obra, District - Aurangabad.

... .. Petitioner/s

Versus

1. The State of Bihar through the Secretary, Social Welfare Department,  
Government of Bihar.
2. The Director, Social Welfare Department, Government of Bihar, Patna, Bihar.
3. The Deputy Director, Welfare, Magadh Division, Gaya.
4. The Commissioner, Magadh Division, Gaya.
5. The District Magistrate, District - Aurangabad.
6. The District Welfare Officer, District Aurangabad.
7. The District Programme Officer, Aurangabad.
8. The Block Development Officer, Obra, Aurangabad.
9. The Child Development Project Officer, Block - Obra, Aurangabad.

... .. Respondent/s

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**Appearance :**

For the Petitioner/s : Mr. Anil Kr Singh No. 6  
For the Respondent/s : Mr. YOGENDRA PD. SINHA

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**CORAM: HONOURABLE MR. JUSTICE S. KUMAR**  
**ORAL JUDGMENT**  
**Date : 09-02-2018**

Heard learned counsel for the petitioner and  
learned counsel for the State.

2. This petition under Article 226 of the  
constitution of India has been filed for quashing the order  
dated 30.09.2013 in Case No. 68 of 2013, passed by  
respondent no. 7 District Programme Officer, Aurangabad,  
by which the petitioner who was working as Anganwari  
Sevika has been removed from her post, as well as the order  
dated 04.04.2014 passed by the appellate authority i.e.



respondent no. 3 Deputy Director, Welfare, Magadh Division, Gaya, by which the appeal filed by the petitioner has been dismissed.

3. The petitioner was appointed as Anganwari Sevika on 18.05.2002. After completion of her training, she started discharging her duty at the Anganwari Centre at the relevant time for pre-school education of children and distribution of posahar and T.H.R. from 8:00 am to 12:00 noon.

4. The Anganwari Centre is running in the house of the petitioner. It has been alleged that on 01.06.2013, a surprise inspection was made by the Assistant Collector cum B.D.O. Obra at the instance of District Magistrate, Aurangabad of Anganwari Centre and it was found that the centre was closed and report was submitted regarding Anganwari Centre of the petitioner. On the basis of report submitted by the Assistant Collector cum B.D.O. Obra to D.P.O. Aurangabad, a show cause notice was issued to the petitioner with respect to the irregularities found during inspection along with its opinion for removal of petitioner. Petitioner submitted her reply denying the allegations and



after hearing petitioner, she was removed from the post of Anganwari Sevika, and thereafter she filed an appeal before the Deputy Director, Welfare, which was also rejected.

5. A counter affidavit has been filed on behalf of the State of Bihar. The Anganwari Centre was inspected by the Assistant Collector cum B.D.O., Obra at the instance of D.M. Aurangabad on 01.06.2013 at 11:50 am to verify the functioning of Anganwari Centre and the Anganwari Centre was found to be closed. It was reported that Sevika and Sahaika were present there and on demand they did not produce register and records for verification and inspection by the concerned authorities. Villagers who were present there were threatened by the petitioner's-husband not to make any complaint against the Anganwari Sevika and Sahaika and on the basis of such inspection report, show cause was issued to the petitioner and after hearing both the parties the District Programme Officer, Aurangabd, removed the petitioner from the post of Anganwari Sevika and her appeal before the appellate authority was also dismissed.

6. Learned counsel for the petitioner has brought



on record a circular dated 20.06.2012 of Director, ICDS, Social Welfare Department, Govt. of Bihar, which has been annexed as Annexure-11 to the supplementary affidavit, in which the guidelines had been issued to be followed by the State and District Surprise Inspection Team while making inspection of Anganwari Centre, in which a detailed procedure, norms and guidelines have been laid down to be followed by the inspecting team, so that there is uniformity in decision taken pursuant to reports submitted by the surprise inspection team. It has been contended on behalf of the petitioner that the inspection team did not follow the guidelines of Director, ICDS as such no decision could have been taken on such inspection report.

7. It has also been submitted that at the appellate stage, when the appeal of the petitioner was pending a report was called by the Appellate Authority with respect to previous inspections from the C.D.P.O. Obra, Aurangabad (Respondent No. 9) and who in her monthly inspection report had found that no complaint of any beneficiary or any complaint with respect to functioning of the Anganwari Centre had been received and during inspection made on



previous occasions the functioning of Anganwari Centre was found to be satisfactory. The presence of enrolled children, preparation of poshahar, T.H.R has been reported to be provided to the beneficiaries at the centre.

8. It is an admitted fact that Anganwari Centre timing at that point of time was from 8:00 am to 12 Noon. The inspection was made at 11:50 am and day as claimed by the petitioner was very hot. The petitioner has also brought on record that fund for that month for preparation of Poshahar was not released. The children had come and left the centre.

9. The report prepared by inspection team is also perfunctory and cryptic and has not been prepared as per the guidelines issued by the department, as such no action could have been taken on such report. It will be very unsafe and harsh to remove petitioner from the post of Anganwari Sevika on such report, when no complaint against her has been made since 2002 after her appointment and in all monthly inspection reports, her performance has been found to be satisfactory as reported by the C.D.P.O.(Respondent No. 9).



10. This court also finds that it is quite unsafe for the District Programme Officer (Disciplinary Authority) to solely rely upon the surprise inspection report for removing Anganwari Sevika/Sahaika. The District Programme Officer, Aurangabad, has also to take into consideration monthly inspection report/performance appraisal report prepared by departmental authorities i.e C.D.P.O/ Supervisors. If there is an adverse report by surprise inspection team such centres should be kept under watch and closely monitored but to remove Anganwari Sevika/Sahaika solely on the basis of adverse surprise inspection when in other reports her work is reported to be satisfactory, will be harsh, unjust, unfair and inequitable punishment.

11. The surprise inspection team constituted at State level or District Level should also refrain from giving their opinion with respect to quantum of punishment as same causes prejudice to Anganwari Sevika/Sahaika and influences decision of disciplinary authority while imposing punishment on Anganwari Sevika/Sahaika particularly when inspection is made by authority, who is in higher rank



than disciplinary authority.

12. It is true that Anganwari Sevika/Sahaika are not Government servants and are not holder of civil post as such they do not have protection of Article 311 of the Constitution of India, but even in their case of removal, procedural fairness and compliance of natural justice is desirable. Learned counsel for the petitioner has relied upon a judgment of this court dated 06.09.2017 passed in the case of **Madhu Devi vs the State of Bihar & Ors** enclosed as Annexure-12 to this writ petition, by which this court has quashed the order of removal for non-compliance of norms and procedure as prescribed in the guidelines issued by the Director, ICDS for the inspecting team while making surprise inspection of Anganwari Centres.

13. Considering the aforesaid facts and circumstances of the case, order dated 30.09.2013 passed by respondent no. 7 District Programme Officer, Aurangabad and order dated 04.04.2014 passed by the appellate authority i.e. respondent no. 3 Deputy Director, Welfare, Magadh Division, Gaya, are quashed. Petitioner is directed to be reinstated in service forthwith, however, without any



back wages.

Writ petition stands allowed.

(S. Kumar, J)

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