

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4746 of 2011

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Rita Devi, wife of Pawan Kumar Singh, resident of Village-
Jaynagar Basti, P.O.+P.S.-Jaynagar, District-Madhubani.

... .. Petitioner/s

Versus

1. The State of Bihar
2. The District Magistrate, Madhubani
3. The District Programme Officer, Madhubani
4. The Child Development Project Officer, Jaynagar, District-
Madhubani.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Rajesh Sinha, Adv
For the Respondent/s : Mr. Girija Shankar Pd GP-1

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CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
ORAL JUDGMENT

Date : 28-11-2018

The petitioner, who at the relevant time was an
Aanganbari Sahayika has challenged the order dated
13.02.2010 (Annexure-3) passed by the District Programme
Officer, Madhubani whereby her services has been
terminated as also the order dated 18.06.2010 (Annexure4)
passed by the District Magistrate, Madhubani in Aanganbari
Appeal No. 77/2010/26/2010-11, affirming the termination
order referred to above.

2. It appears from the records that a complaint



was made by the husband of the petitioner in his capacity as Ward Member against one Mamta Devi, an *Aanganbari Sewika* in the same centre where the petitioner was posted and dispensed with her engagement as *Aanganbari Sahayika*.

3. The District Programme Officer, while hearing the complaint against aforesaid Mamta Devi, though made by the husband of the petitioner, came to the conclusion that the centre was not being run properly because of the inter-personal dispute between the petitioner (*Aanganbari Sahayika*) and aforesaid Mamta Devi who worked as *Aanganbari Sewika*. The District Programme Officer, therefore, by order dated 13.02.2010 came to the conclusion that the complaint against Mamta Devi was motivated and perhaps the responsibility of the centre not being run properly squarely lay on the head of the petitioner in her capacity as *Aanganbari Sahayika*. The District Programme Officer also took into account that since the petitioner is the wife of a ward member, she was not entitled to be appointed as any *Aanganbari* functionary because the



rules in that regard prohibit the appointment of such persons who are related to certain class of persons.

4. Thus, the enquiry was concluded by giving a warning to Mamta Devi for being careful in future and withdrawal of one month's honorarium which was being paid to her.

5. Without there being any enquiry directed against the petitioner, by the same order, the services of the petitioner was terminated.

6. The petitioner, thereafter appealed before the District Magistrate which too was dismissed but without any speaking order.

7. Mr. Rajesh Sinha, learned advocate for the petitioner has assailed the aforesaid orders on two grounds viz. that the District Programme Officer was looking at the complaint against Mamta Devi and not the petitioner. In that event, even if something was found against the petitioner, the proceeding *ipso facto* could not have been turned against her.

8. The second ground of assail is that the District



Programme Officer came to his satisfaction without there being any evidence against the petitioner and only on the presumption that the centre was not being run properly because of *inter-se* dispute between the petitioner and *Aanganbari Sewika* viz. Mamta Devi.

9. The learned counsel for the petitioner has submitted that the orders reflect complete bias on the part of the District Programme Officer as well as the District Magistrate as they did not at all advert to the facts and circumstances of the case and did not even notice the petitioner that in the proceedings, her conduct also would be scrutinized.

10. The appointment process of *Aanganbari* functionaries viz. Supervisor, *Sahayika* and *Sewika* is governed by the rules made in that regard. Rule 9 of the aforesaid directions issued under the signature of the Secretary, Welfare Department, State of Bihar indicates that for taking any administrative action against the functionaries of the *Aanganbari*, explanation has to be sought from them by the Child Development Project Officer or any officer of



similar rank and after analyzing the show cause reply, any recommendation for removal could be made by the aforesaid Officers to the District Magistrate.

11. Rule 10 further indicates that after such a proposal is made, the District Magistrate shall allow an opportunity to the concerned Officer to explain and raise his/her defence and only thereafter order of termination could be passed. The order of termination has to be a speaking order.

12. From the perusal of the orders impugned, it appears that no notice was served upon the petitioner for giving her explanation with respect to the charges against her. It has already been noted that the proceeding was initiated against one Mamta Devi, *Aanganbari Sewika* and not against the petitioner. It matters not that the aforesaid proceeding was initiated at the instance of the husband of the petitioner who, at the relevant time was a Ward Member.

13. The District Programme Officer could only have given his recommendation over which the District Magistrate could have passed any order of termination. That not having



been done, both the orders cannot be sustained in the eyes of law.

14. On the basis of the aforesaid contention raised on behalf of the petitioner, it has been urged on behalf of the State that in the first instance, the appointment of the petitioner as *Aanganbari Sahayika* was not in terms of the rules as there is a prohibition of appointment on such posts of *Aanganbari* to any Class-I relative of local functionaries like dealer of P.D.S, Ward Member etc.

15. In response to the aforesaid stand of the State, learned counsel for the petitioner has stated that her husband was elected as a Ward Member after her appointment as *Aanganbari Sahayika*. Today, as the situation stands, the husband of the petitioner is no longer the Ward Member in which the concerned centre is situated.

16. Finding that the District Programme Officer, in an unauthorized manner, turned his gaze towards the petitioner who was not facing any enquiry, any order passed by him which is *de hors* the rules cannot be sustained. The District Magistrate, Madhubani also did not appreciate the



aforesaid aspects and put his stamp of approval. Hence, both the orders impugned are set aside.

17. The learned counsel for the petitioner on being questioned by this Court specifically, has submitted that the post of *Aanganbari Sahayika* is still vacant and that the husband of the petitioner is no longer the Ward Member.

18. If these facts are correct, the District Magistrate shall look into the matter and consider appointing the petitioner on the post of *Aanganbari Sahayika* as she had not completed her term of three years.

19. In case there is any disability or adverse circumstance in the appointment of the petitioner afresh as *Aanganbari Sahayika*, the order shall not be given effect to.

20. This writ petition is disposed off with the aforesaid directions.

(Ashutosh Kumar, J)

Shageer/-

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