

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15495 of 2014

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1. Shila Kumari W/o Mohan Ram
 2. Munni Kumari @ Munni Devi W/o Subhash Chandra Ram Both residents of village- Katkuiya Tola Vinak Singh, P.S.- Chiraiya, District- East Champaran

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Social Welfare Department, Government of Bihar, Patna
2. The Director, I.C.D.S. Bihar, Patna
3. The Assistant Director, I.C.D.S., Bihar, Patna
4. The Deputy Director, Welfare, Tirhut Division, Muzaffarpur
5. The District Magistrate, East Champaran, Motihari
6. The District Programme Officer, East Champaran, Motihari
7. The Child Development Project Officer (C.D.P.O.), Chiraiya, East Champaran

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Virendra Kuar, Adv.
For the Respondent/s : Mr. Gp1- U.S.S.Singh

CORAM: HONOURABLE MR. JUSTICE S. KUMAR
ORAL JUDGMENT

Date : 25-04-2018

This writ petition under Article 226 of Constitution of India has been filed for issuance of certiorari for quashing the order dated 9.12.2013 passed by District Programme Officer, East Champaran, Motihari, by which petitioner has been removed from the post of Aanganwari Sevika.

Briefly stated the case of petitioners is that petitioners no. 1 and 2 were appointed on 6.2.2004 as Aanganwari Sevika and Aanganwari Sahayika at Aanganwari Centre No.125, Schedule Caste Tola by Respondent no. 6, the District Programme Officer, East Champaran, Motihari, vide Memo dated 8.7.2004 and after



their appointment they were discharging their duties in terms of guidelines issued by the ICDS.

On 23.8.2013 at about 12-10 P.M. Smt. Prabha, Assistant Director of ICDS (Respondent no. 3) made a surprise inspection at the Aanganwari Centre of petitioners and found that there was no sufficient place for accommodating forty children and children present were not in uniform and Poshahar was also not being prepared by the Aanganwari Sevika and in the Inspection Register she has stated that fifteen children were present. However, in the inspection report it has been stated that 14 children were present and also recommended removal of Aanganwari Sevika/Sahayika.

In view of the said inspection report a show cause was issued to petitioners vide Memo dated 22.10.2013 without providing inspection report although they were removed on the basis of said inspection report and also on the recommendation made in the inspection report by the Assistant Director of ICDS. Respondent no. 6, the District Programme Officer, thereafter removed petitioners and no opportunity was provided to them before their removal.

It has been submitted by the learned counsel for the petitioners that a decision was taken to constitute a State Level



Team to inspect the Aanganwari Centre but the Centre was not inspected by any State Level Team and only Assistant Director, ICDS, inspected the Centre contrary to the Government circular in which she made a recommendation for removal of petitioners and accordingly on the basis of said inspection report petitioners were removed from service in flagrant violation of natural justice.

It has further been submitted that on the day when inspection was made i.e. on 21.8.2013 it was raining heavily and therefore Poshahar was being prepared at the residence of house owner as the Centre is situated in an open place. The Authority also did not consider as there was no Panchayat Bhawan, Community Hall or any Government Building in the said locality. In the Inspection Register it has been reported that 15 children were present at the Centre whereas in the show cause notice issued against petitioners fourteen children were shown to be present at the Centre which is contrary to the inspection report.

A counter affidavit has been filed on behalf of respondents in which it has been stated that on 29.08.2013 at about 12:10 pm the member of the State Level Team inspected Centre no.125 and found number of children less than shown in the attendance sheet. The number of children present were only fourteen and Poshahar was not being prepared. The State Level



Team submitted its report to the Director, ICDS, Bihar, and recommended for termination of Sevika and Sahayika. The Director, ICDS sent the inspection report to the District Programme Officer and District Programme Officer asked show cause from petitioners vide Memo dated 22.10.2013 and thereafter removed them from service.

During pendency of the writ petition the appeals no.184/2013-14 and 185/2013-14 were preferred by petitioners before the Deputy Director, Welfare, Tirhut Division, Muzaffarpur, and the same was dismissed.

The issue regarding inspection made by the State Level Team and its recommendation for removal of Aanganwari Sevika and Aanganwari Sahayika has been considered by the Court in the case of *Manjula Kumari & Anr. vs. The State of Bihar and Ors.* since reported in *2013(1)PLJR(HC) 901* and it has been held that on the basis of inspection report and recommendation by the Senior Authority, there is no discretion left with the District Programme Officer and issuance of show cause and passing order of removal remains formality only as he cannot go against the recommendation made by the Higher Authorities and as such this Court has held that such proceeding is against natural justice and fair play and in view of the judgment passed by this Court, the



order of removal of petitioners is not sustainable and is accordingly set aside. The petitioners are directed to be reinstated within three months from date of receipt/production of copy passed by this Court, however without any backwages.

Writ petition stands allowed.

(S. Kumar, J)

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AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	

