

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No 14089 of 2013

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Sangita Kumari Wife Of Satyendra Kumar Resident Of Village Manjhauli, Police
Station Belchi, District Patna

.... Petitioner/s

Versus

1. The State Of Bihar
2. The Commissioner-Cum-Secretary, Welfare Department, Government of Bihar,
Patna
3. The Director, I.C.D.S., Indra Bhawan, Near Pant Bhawan, Bihar Patna
4. District Program Officer, District Program Branch, I.C.D.S. Collectorate, Patna
5. Child Development Project Officer, Barh, Patna

.... Respondent/s

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For the Petitioner/s	: M/s Santosh Kr Sinha -2, Vijay Kr Verma, Advs
For the S t a t e	: Mr Ajay Bihari Sinha, GA VIII with Mr Suryakant Kr, AC to GA VIII

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CORAM: HONOURABLE MR JUSTICE MADHURESH PRASAD

ORAL JUDGMENT

Date: 25-07-2018

Heard learned counsel for the petitioner as also
respondent-State.

2 Learned counsel for the petitioner, relying upon
decision of this Court in the case of *Manjula Kumari and Another –
Versus- State of Bihar and Others, 2012 (3) BLJ 159*, submits that
since the entire proceedings have been initiated on the basis of the
directives issued by the higher authority being the Director, Integrated
Child Development Scheme (for brevity, *ICDS*) under his
communication dated 13.06.2012; cancellation of petitioner's
contractual appointment as *Angan Bari Sevika* under order dated
29.06.2012 issued by the District Programme Officer is unsustainable.
Relying upon the said decision, it is submitted that since the higher



authority had directed the District Programme Officer to take action for terminating the petitioner's services, the presumption in law would be that the District Programme Officer has no other option in the matter but to terminate the services of the petitioner and such a procedure is not fair. The entire proceeding does not inspire any confidence.

3 Learned counsel for the respondents submits that stand taken by the petitioner before the Authority is that since March, 2012 till the date of inspection that is on 04.05.2012 for about two months, the *Poshahar* was not being supplied to the Centre in question by the Child Development Project Officer (for brevity, *CDPO*) and, as such, the welfare activity in the said Centre for children was suffering on account of non-supply of *Poshahar* by the CDPO. The admitted position emerging from such submission is that the welfare measure in the Angan Bari Centre where petitioner was Angan Bari Sevika was not carried out for at least two months. It is, therefore, that the Director, ICDS, under the communication dated 13.06.2012 has directed for initiation of action against the Angan Bari Sevika as also the CDPO.

4 The plea regarding non-supply of *Poshahar*, prima facie, lacks bona fide. The petitioner, being the *Angan Bari Sevika* should have acted with due regard to the welfare measure for which



the Centre has been set up. There is nothing on record to show that any complaint or communication had been made by the petitioner (*Angan Bari Sevika*) to the higher authorities with respect to non-supply of *Poshahar* for the last about two months.

5 In view of such admitted position emerging from the records, the petitioner cannot be permitted to raise the issue of the order of the Director, ICDS being contrary to the procedure as has been held in the case of *Manjula Kumari (supra)*.

6 The propositions of law laid down in the case of *Manjula Kumari (supra)* cannot be disputed. It is equally important that the *Angan Bari Sevika*, in this case the petitioner, should have acted with due regard to implementation of the welfare measure for which the Centre has been set up.

7 In view of the admitted position that the welfare measure at the Centre was not being performed for the last two months, the petitioner cannot be permitted to derive any benefit from non-supply of *Poshahar* for last two months. She has allowed such position to continue for two long months at the cost of the beneficiary children by not raising the issue of non-supply of *Poshahar* before the higher competent Authority.

8 Thus, non-compliance with the procedure by Director, ICDS, or the form of his communication dated 13.06.2012 has not



caused any prejudice to the petitioner.

9 In view of the admitted position, taken note of hereinabove, the order of the District Programme Officer, affirmed by the District Magistrate, cannot be said to be arbitrary in any way.

10 The writ petition is devoid of any merit and the same is dismissed.

(Madhuresh Prasad, J)

M.E.H./-

AFR/NAFR	NAFR
CAV DATE	NA
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