

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8958 of 2017

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Karuna Jha, wife of Santosh Kumar, resident of C/o- Sri Arvind Jha, Dr. Rajni Gali, Bajrang Path, Bajrangpuri, P.O. Gulzarbagh, P.S.- Alamganj, District- Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Social Welfare, Bihar, Patna.
2. The Principal Secretary, Department of Social Welfare, Bihar, Patna.
3. The Director, Social Welfare-cum-Vice Chairman, State Child Protection Committee, Government of Bihar, Patna.
4. The District Magistrate, Sitamarhi.
5. The Assistant Director, District Child Protection Unit, Government of Bihar, Sitamarhi.
6. The Centre Direct through the Secretary, Parmod Kumar Sharma, Bariyarpur, P.S. Sitamarhi, District- Sitamarhi.
7. The Centre Direct through the Executive Secretary, Anil Kumar Sharma, Bariyarpur, P.S. Sitamarhi, District- Sitamarhi.

... .. Respondents

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Appearance :

For the Petitioner/s	:	Mr. Mrigank Mauli, Advocate Mr. Amish Kumar, Advocate
For the State	:	Mr. Md. Raizul Haque, S.C.-10 Mr. Md. Obaidullah, A.C. to S.C.-10
For Respondent Nos. 6 & 7 :		Mr. Prabhakar Kumar, Advocate

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date : 25-06-2018

Heard learned counsel appearing for the respective parties.

In this case, the petitioner is challenging the order dated 13.04.2017, by which the period of probation of the petitioner has been refused to be extended.

The petitioner was employed by the private



organization, namely, Centre Direct, is an N.G.O. running for the welfare of the child. It is not disputed that this organization must have been registered under the Societies Registration Act as for the welfare of the child, the Government has assigned the job for keeping the child properly under the Juvenile Justice Act.

The petitioner was engaged as Officer in-Charge (Superintendent) and was to discharge the duty as assigned to her. She was kept in probation and during the probationary period her work was not found satisfactory and ultimately, impugned order dated 13.04.2017 has been passed.

The Court has put a question to learned counsel for the petitioner about the maintainability of the writ petitioner, reason is that the petitioner was employed by completely a private organization. Reply has been given by the learned counsel for the petitioner that money was given by the State and as per Rule-93 they have to work under the supervision of the State Government.

Merely grant of money and supervision that too for the children will not change the private organization as the 'State' within the meaning of Article-12 of the Constitution of India.



This issue is no longer *res integra* on account of long line of judgments, reliance can be placed to the judgment of the Special Bench of this Court in the case of ***The Organizer, Dehri C.D. & C.M. Union Limited vs. State of Bihar and Ors,*** reported in ***2014(1) PLJR 695***, there the Court has considered the maintainability of the writ petition in the context of ‘BISCOMAUN’ and the Court has taken a view that in the event of taking over under Section 41 of the Bihar & Orissa Co-operative Societies Act, on appointment of Administrator only in that circumstance, the writ would be maintainable, not otherwise and has affirmed the earlier view of this Court.

In such view of the matter, this Court is of the view that the present writ petition is not maintainable. Accordingly, this writ petition is dismissed as not maintainable. However, the petitioner will be at liberty to approach the appropriate forum for redressal of her grievance.

(Shivaji Pandey, J)

pawan/-

AFR/NAFR	N.A.F.R.
CAV DATE	N/A.
Uploading Date	12.07.2018
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