

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.5014 of 2016

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Shakuntala Devi W/o Sri Dina Nath Lal Resident of Village Mahaddipur, P.O. -
Barh, P.S. - Punpun, Dist - Patna.

.... Petitioner

Versus

1. The State of Bihar through the Secretary Samaj Kalyan Vibhag Bihar, Patna.
2. The Director, Integrated Child Development Services (ICDS) Directorate, Bihar Society Welfare Department Bihar 2nd Floor Indira Bhawan Ram Charitra Singh Path, Patna.
3. The Deputy Director, Welfare, Patna Division, Patna.
4. The District Programme Officer, Patna District Programme Branch, integrated child Development Services (ICDS) Patna Collectorate, Patna.
5. The Child Development Project Officer Punpun Cum Sampatchak, Integrated Child Development Services (ICDS) Bihar, Patna.

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Durgesh Pd. Sinha, Adv.

For the Respondent/s : Mr. Md. Irshad, AC to SC-1

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

ORAL JUDGMENT

Date: 09-04-2018

Heard Mr. Durgesh Prasad Sinha, learned counsel for the
petitioner and Mr. Md. Irshad, learned AC to SC-1, for the State.

The petitioner prays for quashing of the order dated
4.4.2014 of the District Programme Officer, Patna, whereby the service
of the petitioner as Anganwari Sevika, Anganwari Kendra No. 102,
Mahadipur, in the district of Patna has been set aside. A copy of the
order is impugned at Annexure 8 to the writ petition and has been
confirmed by the Deputy Director, Welfare, Patna Division, Patna in
appeal which was dismissed vide order passed on 6.1.2015 impugned
at Annexure 9.



It is the contention of Mr. Sinha, learned counsel for the petitioner, that though the Sevika and Sahaika both were proceeded against for the same set of charges as manifest from Annexures 2 and 6 respectively, yet while the petitioner has been terminated vide Annexure 8, the Sahaika has been exonerated of similar charges vide Annexure 10 and the reasons for such distinct opinion are not reflected in the two orders.

The argument has been contested by Mr. Md. Irshad, learned counsel for the State, in submitting that since the irregularities were found at the centre by the Child Development Project Officer as noted at Annexure 1 which led to a proceeding by service of charge memo at Annexure 2 that not being satisfied by the reply given by the petitioner at Annexure 3, the impugned orders have been passed.

I have heard learned counsel for the parties and have perused the records.

A cursory glance of Inspection Register at Annexure 1, which is a report and the show cause at Annexure 2 would confirm that some irregularities were found at the centre by the Child Development Project Officer which was reported and led to issuance of charge memo. The petitioner has denied each of the charges but the explanation has been rejected by the District Programme Officer vide Annexure 9 without expressing any reason for its rejection. The



foundation for the show cause lies in the report at Annexure 1 and which sweepingly charges the petitioner of not maintaining the Signboard, Ration, Menu card as well as keeping the centre dirty. All these allegations have been denied by the petitioner and in support she has also submitted the opinion of the local villagers. Similar is the stand taken by the Sahaika who was also proceeded for identical charges but while the petitioner has been terminated, the Sahaika has been let off. Neither the report of the Child Development Project Officer discusses materials for confirming the opinion nor the allegation is supported by any oral evidence or complaint by the villagers nor denial of the petitioner to the charges against maintaining of registers is supported by the materials. In other words, it is a word against word and both the statutory authorities i.e. the District Programme Officer and the appellate authority, Deputy Director, Welfare have chosen to side by the report of the Child Development Project Officer which is resting on no material. Besides merits/ demerits of the charge, another additional factor which goes in favour of the petitioner is the exoneration of the Sahaika who was also proceeded for self same charges. In my opinion, the statutory authority performing quasi judicial function cannot adopt different yardstick, especially where the charges facing two delinquents are the same.



Every irregularity cannot invite extreme penal action of dismissal. As I have observed, even if there be any irregularity found by the Child Development Project Officer in maintenance of the records or ration or Signboard, before the extreme action of dismissal is taken, the Anganwari Sevika/ Sahaika concerned, needs to be cautioned against punitive action. In the present case while the petitioner denies the charge, none of the authorities have rested their opinion on any definite material to reject her stand. My opinion thus expressed, the orders impugned cannot be upheld and are accordingly quashed and set aside. The petitioner is reinstated on her post. The consequences would follow.

The writ petition is allowed.

(Jyoti Saran, J)

Surendra/-

AFR/NAFR	AFR
CAV DATE	NA
Uploading Date	27.04.2018
Transmission Date	NA

