

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.20441 of 2014

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Manju Devi Sinha W/o Late Kamdeo Prasad, Resident of Village - Amarpura, P.s.
- Kako, District – Jehanabad

.... **Petitioner**

Versus

1. The State of Bihar.
2. The Principal Secretary, Social Welfare Department, Govt. of Bihar, Patna.
3. The Divisional Commissioner, Magadh Division, Gaya.
4. The Director, I.C.D.S. Directorate, Social Welfare Department, Govt. of Bihar, Patna.
5. The District Magistrate-cum-Collector, Jehanabad.
6. The Deputy Director, Welfare, Magadh Division, Gaya.
7. The Child Development Project Officer, Kako Jehanabad.
8. Smt. Sushila Devi W/o Manoj Kumar, Resident of Village - Amarpura, P.S. - Ali Nagar, Pali, District – Jehanabad

.... **Respondents**

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Appearance :

For the Petitioner : Mr. Shabbir Ahmad, Advocate
Mr. Shambhu Sharan Singh, Advocate
For the State : Mr. Sarvesh Kr. Singh, AAG 13
For the respondent no.8 : Mr. Lavekush Kumar, Advocate

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CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD

ORAL JUDGMENT

Date: 31-07-2018

Heard learned counsel for the petitioner, the State and the private respondent no.8.

Short issue which arises for consideration is regarding competence of the Director, Integrated Child Development Scheme (herein after referred to as ‘the ICDS’) to cancel petitioner’s selection as Anganbari Sevika for Center No. 29 situated at Amarpura, Pali, Kako, Jehanabad. The Director, ICDS under his impugned order dated 2.9.2013 bearing Memo no. 4380 has once again restored his earlier decision dated 21.11.2007 cancelling petitioner’s selection as Anganbari Sevika.

Both the said orders are patently illegal. These orders



have been issued without any authority inasmuch as there is no such power under the guidelines provided to the Director, ICDS for cancelling selection of Anganbari Sevika. Such power is vested in the District Magistrate. Other thing which is evident from perusal of order 21.11.2007 bearing Memo no. 3432 which has been restored under order dated 2.9.2013, passed by the Director, ICDS is that the same was issued without affording the opportunity of hearing to the petitioner in the matter. On account of these two grounds cancellation of petitioner's selection is unsustainable in law. The same is without affording opportunity of hearing to the petitioner and contrary to the principle of Natural Justice as also order has not been passed by the competent authority.

Learned counsel for the respondent no.8 is also not in a position to sustain the action of Director, ICDS with reference to any provision under which the Director, ICDS could issue order cancelling selection of the petitioner that also without affording any opportunity of hearing.

The same issue has earlier been considered by this Court vide order dated 31.3.2011, passed in C.W.J.C.No. 3084 of 2008. The impugned orders are therefore quashed. The Director, ICDS may proceed to relegate the issue to the competent authority, i.e., the District Magistrate under the guidelines for proceeding afresh in the matter in accordance with law.



The writ petition is allowed to the extent indicated
above.

(Madhuresh Prasad, J)

Shashi.

AFR/NAFR	NAFR
CAV DATE	NA
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