

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.20325 of 2011

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1. Anita Kumari W/O Bijendra Prasad Yadav Resident Of Village - Balu Dhima, P.S. - Raniganj, District - Araria
 2. Radha Devi W/O Sahadur Mandal Resident Of Village - Balu Dhima, P.S. - Raniganj, District - Araria

... .. Petitioner/s

Versus

1. The State Of Bihar
2. The Commissioner, Purnea Division, Purnea
3. The District Magistrate, Araria
4. The District Programme Officer-Cum-District Welfare Officer, Araria
5. The Child Development Project Officer, Raniganj, Araria

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Raj Kumar, Adv
For the Respondent/s : Mr. Manish Kumar AC to AAG-6

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CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
ORAL JUDGMENT

Date : 04-12-2018

The petitioners who were appointed as *Anganwari Sevika* and *Sahayika* respectively for the I.C.D.(*Anganwari*) Centre No. 216/11 have challenged the order dated 18.01.2011 passed by the District Programme Officer (Respondent No. 4) whereby their appointment as *Anganwari Sevika* and *Sahayika* has been cancelled as well



as against the order dated 27.07.2011 passed by the Commissioner (Respondent No. 2) in Appeal No. 57 of 2010-11 whereby their appeal has been dismissed and the order of cancellation of their appointment has been upheld.

2. It appears that a State level inspection was conducted of several I.C.D Centres in Raniganj Block on 14.08.2009, and the inspection report manifested that the Centre at which the petitioners were employed as *Anganwari Sevika* and *Sahayika* respectively, was not being run properly.

3. It has been submitted on behalf of the petitioners that on the inspection report submitted by the Inspecting Authority viz. the Assistant Director, the I.C.D.S. Directorate, Patna had almost made up its mind to cancel the selection of such *Anganwari Sevika* and *Sahayika* whose Centres were inspected and against whom negative inspection report was filed. It further appears that a proceeding for cancellation of selection of petitioners was initiated at the end of District Programme Officer (Respondent No. 4). A show cause notice was served upon



them, a copy of which has been annexed as Annexure-2 to the writ petition.

4. From a bare perusal of the show cause served upon the petitioners, it has been argued, it would appear that the Centre at which the petitioners were discharging their functions as *Anganwari Sevika* and *Sahayika* was found to be situated at a place which was away from the general residential area. In front of the Inspecting Team/Officer, no register which was demanded was produced. Apart from this, it was also found that the children who would normally be the beneficiary of the scheme of distribution of ration and food, reported that they were not being served the same. The response of the petitioners was sought on the above finding of the Inspecting Officer.

5. It has been submitted on behalf of the petitioners that with respect to the three lapses which were discerned by the Inspecting Team, the petitioners replied and stated that the decision with respect to the location of the Centre was not in their hands; rather it was done after a



decision was taken in the *Aam Sabha* as is required under the rules for the setting up of such Centres in a particular area under a Block. The *Aam Sabha* was convened by the *Mukhiya* and it was resolved to start the Centre in a rented house. With respect to the charge that the registers were not placed before the Inspecting Team, it was stated that such charge was baseless as whatever was demanded by the Inspecting Team was promptly supplied. The allegation of children denying that any mid-day-meal was given to them is based on their so-called statement on 30th August, i.e. the day of inspection, but that day was a holiday for Janmashtami.

6. The aforesaid grounds were not taken into account by the District Programme Officer who rejected the show cause reply and cancelled the appointment of the petitioners. The petitioners thereafter preferred an appeal before the District Magistrate but considering that the cases of the petitioners would be covered by the guidelines of 2010 and not 2008, the appeal was not entertained as it could have been filed before the Divisional Commissioner



only.

7. The learned counsel for the petitioners has drawn the attention of this Court to the appellate order dated 27.07.2011 which also does not at all advert to the grounds taken by the petitioners in appeal or the show cause reply.

8. It appears that a composite order was passed with respect to many persons and in a general manner, the appeal has been disposed off. No reason has been assigned for negating the reply given by the petitioners.

9. The learned counsel for the petitioners, while assailing the aforesaid two orders cancelling the appointment of the petitioners, has drawn the attention of this Court to the judgment delivered in *Manjula Kumari and other analogous cases, the lead case being C.W.J.C. No. 2905 of 2010 reported in 2013(1) PLJR 901*. In the aforesaid case, many functionaries of the I.C.D.S. scheme were terminated from their services. In the aforesaid case, it was urged on behalf of the terminated functionaries that the inspection by the Assistant Director was made behind



their back and that the order of termination was passed without taking into account their response.

10. In the aforesaid case, a Bench of this Court, after going through the requirements under the concerned guidelines as also the principles of natural justice came to the conclusion that the nature of the show cause notice with the instructions of the Director to terminate the services pre-supposed that the entire enquiry as well as the appeal was a sham and that a decision had already been taken for termination/cancellation of the appointment of the concerned *Anganwari Sevika* and *Sahayika*.

11. This Court quoted with approval the judgment delivered in *ORYX Fisheries Private Limited Vs. Union of India and Others reported in (2010) 13 SCC 427* that justice is rooted in confidence and justice is the goal of a quasi judicial proceeding also. In the functioning of a quasi judicial authority has to inspire confidence in the minds of those subjected to its jurisdiction, such authority must act with utmost fairness which is obviously to be manifested in the language in which the charges are couched and



conveyed to the persons proceeded against.

12. In the present case, it has been urged that the inspection was made behind the back of the petitioners. The Directorate of the I.C.D.S. directed the District Programme Officer (Respondent No. 4) to initiate the proceedings for cancellation of their appointment. Pursuant to the aforesaid direction, show cause notice was issued.

13. As has been observed earlier, the show cause notice only spoke about three lapses. In fact, it was surprising to see that in the column with respect to the distribution of ration or the mid-day-meal, there is a noting that children suffering from malnutrition were given double the amount of the ration.

14. The three charges which were raised pursuant to the report of the Inspecting Officer were replied by the petitioners but both the orders which have been impugned in the present petition do not seem to advert to the aforesaid grounds.

15. Thus, it appears that the authorities have acted with a pre-conceived notion of coming to the



conclusion which had already been decided.

16. For the aforesaid reasons, the aforesaid two orders cannot be sustained in the eyes of law and are set aside.

17. The matter is remitted to the District Programme Officer (Respondent No. 4) for writing a fresh order after hearing the petitioners afresh. It would not be necessary to give the petitioners any personal hearing and it would suffice if the petitioners file a representation before the District Programme Officer (Respondent No. 4) within a period of four weeks from today. On such representation by the petitioners, a speaking order shall be passed within a period of four weeks of the filing of such representation.

18. Needless to state that the District Programme Officer (Respondent No. 4) shall look into every aspect of the matter and shall pass a reasoned order in accordance with law. It is also made clear that if the petitioners would not be satisfied by the order passed by the District Programme Officer (Respondent No. 4), they would have liberty to approach the Appellate Authority under the new



rules.

19. The application stands allowed with the
aforesaid observations and directions.

(Ashutosh Kumar, J)

Shageer/-

AFR/NAFR	NAFR
CAV DATE	NA
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