

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.11057 of 2011

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Geeta Devi, W/O Ramashankar Paswan, resident of Village Dinara, P.S. Dinara,
Dist.- Rohtas

.... Petitioner/s

Versus

1. The State Of Bihar
2. The District Magistrate, Rohtas At Sasaram
3. The District Programme Officer, District Rohtas At Sasaram
4. The Child Development Project Officer, Block Dinara, Dist. Rohtas At Sasaram
5. Smt. Fula Devi W/O Fagu Paswan Village Dinara, Ward No. 4 Panchayat
Dinara, Block Dinara, P.S. Dinara, Dist. Rohtas.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. ABHINAY RAJ, Adv.

For the State : Mr. Birju Prasad, GP-13

For the Respondent no.5: Mr. Chandra Bhushan Singh, Adv.

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD

ORAL JUDGMENT

Date: 02-07-2018

Heard learned counsel for the petitioner and learned
counsel representing the State as well as learned counsel representing
the contesting respondent no.5.

The facts in brief are not in dispute. Earlier the
respondent no.5 was appointed as Anganwari Sevika, on the charges
of certain irregularities allegedly found on the Centre in question she
was terminated. The respondent no.5 came to this Court in CWJC
No.17606 of 2009 challenging the order of her termination, however,
she was relegated back to the alternative remedy which was available
to respondent no.5 to ventilate her grievance before the District



Programme Officer. The learned Writ Court vide order dated 25.02.2010 granted liberty to the respondent no.5 to file an application before the District Programme Officer and thereupon the District Programme Officer was directed to consider and dispose of the application of respondent no.5 by a reasoned and speaking order.

In view of the observations and directions of this Court in CWJC No.17606 of 2009, the respondent no.5 moved before the District Programme Officer, Rohtas (Sasaram). The District Programme Officer, Rohtas (Sasaram) vide his order dated 16.03.2011 allowed the application of respondent no.5 holding that the charges leveled against the respondent no.5 were not proved. The Anganwari Centre was revived and the respondent no.5 was ordered to be reinstated as Anganwari Sevika.

The present petitioner has challenged the order dated 16.03.2011 passed by the District Programme Officer, Rohtas (Sasaram) by which he has ordered for reinstatement of respondent no.5. The grievance of the petitioner is that, while passing the impugned order, the petitioner was not impleaded as party and she was not heard whereas the petitioner was working in place of respondent no.5 as Anganwari Sevika and thus according to her she was a necessary party.

Learned counsel representing the State referring to the



counter affidavit filed on behalf of the respondent nos.2 to 4 would submit that this petitioner was working as Anganwari Sahayika at the centre in question, she was not necessary party in the contest being made by respondent no.5 against her order of termination. The District Programme Officer having examined the materials available on the record brought on behalf of the respondent no.5 came to a conclusion that the charges leveled against the respondent no.5 was not proved and hence her termination was found illegal and bad in law. Upon this declaration that the termination of respondent no.5 was not proper, it is submitted that the District Programme Officer, Rohtas (Sasaram) has rightly directed for reinstatement of respondent no.5 as Anganwari Sevika.

Learned counsel representing the respondent no.5 has also filed a counter affidavit in which it is stated that this petitioner was working only as Sahayika in the centre when the writ application was preferred before this Court, there was no fault on the part of the respondent no.5 and the present petitioner cannot claim her right to the post of Anganwari Sevika once the District Programme Officer has found that the termination of the respondent no.5 was illegal and not justified. It is submitted that in any case this petitioner would have been obliged to give way to the respondent no.5.

Having heard learned counsel for the parties and on



perusal of the records, this Court finds substance in the submissions made on behalf of the respondent no.5. Admittedly, the respondent no.5 was appointed as Anganwari Sevika. After her termination on the charges of certain irregularities she was contesting the order of the termination, she filed a writ application before this Court on which a preliminary objection was raised on behalf of the State regarding its maintainability. The learned writ Court while taking note of the preliminary objection raised on behalf of the State relegated the respondent no.5 to avail statutory remedy before the District Programme Officer where the respondent no.5 has ultimately succeeded. District Programme Officer has held her termination bad and ordered for his reinstatement.

This being the position, in the considered opinion of this Court, petitioner cannot claim her right to occupy the post of Anganwari Sevika. The Court has also been informed that the respondent no.5 has been reinstated as Anganwari Sevika after passing of the order dated 16.03.2011 by the District Programme Officer, Rohtas (Sasaram) and she is continuing on the said post. I find force in the submission of the learned counsel representing the respondent no.5 that once she has succeeded in getting set aside the order of termination, in any case the petitioner was obliged to give way to the petitioner and the petitioner cannot be allowed to stake a



claim to the post of Anganwari Sevika.

In view of the discussions made hereinabove, I do not find any merit in the writ application. It is dismissed accordingly.

(Rajeev Ranjan Prasad, J)

Arvind/-

AFR/NAFR	NAFR
CAV DATE	N/A
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