

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.1456 of 2015

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Ranju Devi wife of Shri Sipahi Manjhi resident of village & P.O . Kotheya,
P.S.- Jalapur, District- Saran.

.... Petitioner/s

Versus

1. The State of Bihar
2. The Commissioner and Secretary, Social Welfare Department
Government of Bihar, Patna.
3. The Director, Social Welfare Department, ICDS Directorate, Bihar,
Patna.
4. The Coordinator Dular, Directorate, Bihar, Patna.
5. The Divisional Commissioner, Saran Division at Chapra.
6. The District Magistrate, Saran at Chapra.
7. The Deputy Development Commissioner, Saran at Chapra.
8. The District Welfare Officer, Saran at Chapra.
9. The Block Development Officer, Jalapur, District- Saran.
10. The Child Development Project Officer, Jalapur, District- Saran.
11. The Mukhiya, Gram Panchayat Raj Rampur Noor Nagar, Block-Jalapur,
District- Saran.
12. The Panchayat Secretary, Gram Panchayat Raj Rampur Noor Nagar,
Block- Jalapur, District- Saran.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Umesh Kumar Mishra, Advocate
For the State : None

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CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD

ORAL JUDGMENT

Date: 18-06-2018

Heard learned counsel for the petitioner. None appears
on behalf of the State.

2. The petitioner who was working as Anganbari Sevika
at Centre No. 122 of Jalapur in the District - Saran is aggrieved by
cancelling of her selection as Anganbari Sevika on the alleged ground
of non-distribution of take-home ration on 28.12.2007.

3. The petitioner had earlier moved this Court by filling



C.W.J.C No. 8034 of 2010. The writ petition was disposed off on 04.03.2011 and the Commissioner-cum-Secretary, Social Welfare Department was directed to hear the appeal of the petitioner and dispose off the same in accordance with law.

4. The petitioner's submission is that in his appeal he has specifically raised the issue of the order dated 23.01.2008 being without jurisdiction in as much as the same was issued by the Director, Integrated Child Development Scheme Directorate, Bihar (for short 'ICDS) whereas the competent authority under the guidelines was a District Magistrate.

5. He submits that the guideline also provides for an opportunity of hearing before. The petitioner has also pointed out that under the same impugned order another Anganbari Sevika namely, Poonam Pandey of Centre No. 132 was also sought to be removed and her selection as Anganbari Sevika was cancelled for the same grounds on which the petitioner's selection has been cancelled.

6. He submits that relying upon the decision of this Court dated 31.03.2011 passed in C.W.J.C. No. 3084 of 2008, the case of the said Poonam Pandey was relegated to the competent authority being the District Magistrate, Saran at Chapra and the District Magistrate has finally passed order dated 06.01.2012 in favour of the said Poonam Pandey in the proceedings before the District Magistrate. It is submission of the petitioner's counsel that



since the impugned order cancelling the petitioner's selection is the same as the one by which the selection of Poonam Pandey was cancelled, therefore, the same was without jurisdiction. His specific pleadings to this effect was stated in para 22 of his appeal which is being reproduced herein below :

“That the director ICDS has usurped the power of Subordinate authority i.e. just like the District Magistrate or Divisional Commissioner which has been provided as per the Rule for Anganbari sevika and Sahayika. In such a situation the order of the Director is usurpation of power of Subordinate authority i.e. the District Magistrate or the Divisional Commissioner”

7. This aspect of the matter has not been considered by the appellate authority. The petitioner therefore, has been made to suffer on the ground of the impugned order which is issued by the Director, ICDS without affording her an opportunity as is contemplated under the guidelines which has been discussed in detailed in the order dated 31.03.2011 passed in C.W.J.C. No. 3084 of 2008.

8. Considering the aforesaid submissions, the order dated 23.01.2008 passed by the Director and the order dated 18.06.2011 passed by the Joint Secretary, Department of Social Welfare are therefore, quashed.

9. Liberty is granted to the Director, ICDS to refer the matter to the District Magistrate along with a copy of the enquiry



report, if any.

10. Since the order is being passed in presence of the petitioner, no notice would be required to be issued to the petitioner. The Director ICDS may submit a report alongwith the complaint and upon complaint being referred to the District Magistrate the matter may be enquired and the final order may be passed there upon after affording due opportunity to the petitioner in accordance with the guidelines.

11. The petitioner may produce copy of this order before the Director, ICDS as well as before the District Magistrate within a period of four weeks from today. The enquiry should be concluded and the final order may be passed by the District Magistrate within a period of four months from the date of receipt/production of a report by the Director, ICDS.

12. It goes without saying that all affected /interested parties would be entitled to be heard in the matter.

13. The writ petition is allowed to the extent indicted herein above.

Prakash/-

(Madhuresh Prasad, J)

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Uploading Date	
Transmission Date	

