

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.1186 of 2016

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1. Aditi Kumari, W/O Sri Ashok Kumar, Resident of Village- Telihar, P.O.- Telihar, P.S.- Beldour, District- Khagaria.

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Social Welfare, Government of Bihar, Patna.
2. The Director, Directorate of I.C.D.S. Department of Social Welfare, Government of Bihar, Patna.
3. The Deputy Director, Welfare, Munger Division, Munger.
4. The District Programme Officer, Khagaria, District- Khagaria.
5. The Child Development Project Officer, Beldour, P.S.- Beldour, District- Khagaria.
6. Sanju Kumari, W/o Shri Statrudhan Singh, Resident of Village- Telihar (North), P.O.- Telihar, P.S.- Beldour, District- Khagaria.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Ajay Kumar Ojha, Adv.

Mr. Shivpujan Sahay, Adv.

For the Respondent/s : Mr. Anil Kumar, AC to SC8

Mr. Sheo Shankar Prasad- SC10

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

ORAL JUDGMENT

Date: 24-08-2018

Heard learned counsel for the parties.

The only ground that is taken by the writ petitioner to question the order dated 02.02.2015 of the Deputy Director, Welfare, Munger Division, in Case No. 66 of 2013 filed by the private respondent against her termination is, that the petitioner was not arraigned as a party and thus she has been denied hearing although she held the post of Anganbari Sevika after the removal of the private respondent.

Learned counsel for the petitioner refers to



the appointment letter dated 4.8.2012 to submit that even though the private respondent was aware that the writ petitioner had been appointed on her place and though the appeal was filed subsequently in the year 2013 yet the private respondent did not arraign the petitioner as a party. In short, it is alleging that the order passed by the Deputy Director, Welfare is in violation of the principles of natural justice as the petitioner has been denied hearing that it is being questioned.

In normal circumstances I would have remitted the matter for fresh consideration by the Deputy Director, Welfare but the circumstance existing in the matter, precludes me from doing so. In fact a remand in the circumstances noted, in the present case, would be an empty formality.

The order of the Deputy Director, Welfare impugned at Annexure-3 would confirm that it is on account of single day closure that the services of the private respondent as Anganbari Sevika had been terminated by the District Programme Officer on 24.01.2012. An explanation was given by the private respondent for her absence but was not taken note by the District Programme Officer. It is taking note of the same explanation so given by the private respondent, that the Deputy Director, Welfare was satisfied to hold that the termination for a single day absence, was not proper.

The reasons assigned by the Deputy Director, Welfare for



setting aside the order of the District Programme Officer is justifiable and the satisfaction recorded requires no interference. In fact there are judgments of this Court including one reported in **2011 (3) PLJR 140 (Punam Kumari versus the State of Bihar & Ors.)** wherein it is held that a termination of services of an Anganbari Sevika for a single day absence, is extremely harsh and observing thus the termination, has been set aside. Similar has been the opinion of the Division Bench while considering the case of cancellation of licence of a dealer under the Public Distribution System since reported in **2012 (3) PLJR 583 (Turant Lal Paswan versus the State of Bihar & Ors.)**.

In view of the legal position so well settled an imposition of extreme penalty of termination for a single day absence is definitely arbitrary and abuse of powers. In the circumstances noted, the order of the Deputy Director, Welfare, Munger Division is in tune with the opinion of this Court thus requiring no interference.

The other reason for refusing remand is because the appointment of the petitioner itself is conditional on the outcome of challenge led by the private respondent against her termination. It is not in dispute that, it is on the vacancy caused by the illegal removal of the private respondent that the writ petitioner had been appointed and thus the moment the removal order is set aside, the consequences has to follow. Even if there would be no illegality in the appointment of the



writ petitioner to the post, since her predecessor in office has been reinstated, she will have to make way for her reinstatement.

In the circumstances, no cause for indulgence is made out to the order impugned.

The writ petition is dismissed.

(Jyoti Saran, J)

Bibhash/Ranveer

AFR/NAFR	NAFR
CAV DATE	NA
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