

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No 10277 of 2013

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Neelam Kumari W/O Sri Arbind Paswan Resident Of Village- Digi Kala East,
Ward No.- 3, P.S.- Hajipur, District- Vaishali

.... Petitioner/s

Versus

1. The State Of Bihar
2. Principal Secretary, Social Welfare Department, Bihar, Patna
3. Divisional Commissioner, Muzaffarpur
4. District Magistrate, Vaishali
5. District Programme Officer, Vaishali
6. Child Development Project Officer, Hajipur Rural

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr Dharmesh Kr, Advocate
For the State : Mr Raghwanand, GA XI
Mr Rajan, AC to GA XI

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CORAM: HONOURABLE MR JUSTICE MADHURESH PRASAD

ORAL JUDGMENT

Date: 29-08-2018

Heard learned counsel for the petitioner and the
respondent-State.

2 The petitioner was removed from the post of Angan
Bari Sevika under the dictates of the Principal Secretary, Social
Welfare Department by letter dated 08.05.2010 bearing Memo No
310. She had approached this Court earlier along with others whose
selection as Angan Bari Sevika has also been cancelled by the same
order. Petitioner's *CWJC No 10923 of 2010* was decided as an
analogous case along with *CWJC No 10861 of 2010*. On 23.08.2010,
the petitioner's writ petition along with the other cases was disposed



of since the petitioner had already availed of alternative remedy.

3 Thereafter, the appellate as well as Revisional Authority have refused to exercise jurisdiction upon the petitioner's application. The Revisional Authority (Divisional Commissioner), Tirhut Division, Muzaffarpur has refused to exercise jurisdiction and consider the petitioner's Revision Application by assigning the reason that she had been removed under orders of a Higher Authority being the Principal Secretary.

4 Being a Lower Authority, Divisional Commissioner had considered it inappropriate to look into the validity of the petitioner's removal since the same was at the instance of the Principal Secretary. From bare perusal of the impugned order, it is apparent that petitioner's removal was at dictates of the Principal Secretary.

5 In this connection, petitioner's learned counsel has referred to judgment of this Court dated 20.04.2012 passed in *CWJC No 2905 of 2012* and its analogous cases in the case of *Majula Kumari –Versus- State of Bihar & Others*. Having considered the judgment in the case of *Manjula Kumari (supra)*, removal from the post of Angan Bari Sevika of the other persons under the same dictate of the Principal Secretary dated 08.05.2010 has been set aside as unsustainable on account of order having been issued at dictates of the



Higher Authority. The removal of other similarly situated as the petitioner under the same order dated 08.05.2010 of the Principal Secretary has been set aside in the proceedings arising out of *CWJC No 13999 of 2012 (Sunita Kumari –Versus- State of Bihar & Others)* and its analogous cases. The petitioner's case is squarely covered by the said judgment.

6 The impugned order dated 11.06.2012 refusing to exercise jurisdiction by the Revisional Authority as well as the order of the Collector dated 01.06.2011 are hereby quashed. The petitioner's removal cannot be sustained for the same reasons as considered in the case of Manjula Kumari (supra) and in the proceedings arising out of *CWJC No 13999 of 2012* taken note of hereinabove.

7 It is, however, made clear that the respondents shall not be precluded from proceeding afresh against the petitioner in accordance with law.

8 The writ petition is allowed.

(Madhuresh Prasad, J)

M.E.H./-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	31.08.2018
Transmission Date	NA

