IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2591 of 2013

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RIZWANA PARWEEN WIFE OF MANJAR KALIM RESIDENT OF VILLAGE- HASANPUR SARSAUNA, POST- GOUPUR SARSAUNA, POLICE STATION- BANGDA HIGHWAY, DISTRICT- SAMASTIPUR

... ... Petitioner/s

Versus

1. The State Of Bihar Through The Secretary, Department Of Child Welfare, Patna
2. The District Magistrate, Samastipur
3. The District Programme Officer, Samastipur
4. The Child Development Project Officer, Tajpur, Samastipur.
5. The Commissioner, Darbhanga.

... ... Respondent/s

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Appearance :
For the Petitioner/s : Mr. Syed Ashfaque Ahmad
For the Respondent/s : Mr. Amar Nath Deo

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CORAM: HONOURABLE MR. JUSTICE S. KUMAR
ORAL JUDGMENT
Date : 02-05-2018

Heard learned counsel for the parties.

2. This application under Article 226 of the Constitution of India has been filed for quashing the order dated 14.01.2010 (Annexure-14) passed by the District Magistrate, Samastipur as well as order dated 30.10.2012 (Annexure-18) passed by the Divisional Commissioner, Darbhanga in Anganwari Sewika Case No. 39/2010-11.

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3. Briefly stated, the facts of the case is that petitioner was appointed as Anganwari Sewika for Anganbari Kendra No. 21 under the Child Development Scheme-1995on 04.08.1997.

4. The Centre was inspected by the C.D.P.O. Tajpur, Samastipur on 07.05.2008 and petitioner was present at the Centre and it is an admitted fact that no amount was withdrawn by the petitioner for distributing food among children.

5. As per direction, issued by C.D.P.O. Tajpur, Samastipur dated 07.05.2008 election was held and new President was elected on 22.05.2008 and her signature was verified by the authority.

6. A show cause dated 22.12.2008, was issued by the C.D.P.O. Tajpur, Samastipur to the petitioner for certain acts of omission and commission found by her at the time of inspection of the Centre and thereafter a similar show cause was again issued on 11.05.2009 by the C.D.P.O to the petitioner and petitioner submitted her detailed reply on 18.05.2009 to the C.D.P.O.

7. District Programme Officer, Samastipur issued a show cause notice to the petitioner on 08.07.2009 and petitioner submitted detailed reply dated 18.08.2008 to the District Programme Officer.

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8. The C.D.P.O., Tajpur, Samastipur advertised for fresh selection on the post of Anganwari Sewika for Centre No. 21 on 12.01.2010. The District Magistrate, Samastipur issued memo dated 14.01.2010. The name of petitioner was deleted from the advoice for bank payment and issued instruction to the bank on 13.03.2010 for the withdrawal of amount from the bank by the new appointee as Anganwari Sewika by the C.D.P.O. Tajpur, Samastipur.

9. Petitioner filed an application before the bank under the R.T.I. Act which was replied by the bank on 16.07.2010 from which petitioner would come to know that she has been replaced by the new incumbent.

10. Petitioner has earlier moved this Court in CWJC No. 5088 of 2010, which was disposed of on 15.11.2010 with liberty to the petitioner to file appeal before the Appellate Authority.

11. A counter affidavit has been filed on behalf of the respondents, in which it has been stated that show cause notice was issued to the petitioner regarding charges and after considering her reply same was found not satisfactory and her selection was cancelled.

12. It has been further stated that Anganwari Sewika works as an agent of the Government in executing the different

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beneficial programmes and schemes run by the Government. The post of Anganwari Sewika is not a civil post and as such they cannot claim protection under Article 311 of the Constitution of India.

13. It has been further stated that petitioner was not discharging her duty and was abstaining from the work as per her whims, as such Mukhiya of the concerned panchayat was directed to take necessary steps for fresh selection so that beneficiary of the scheme may not suffer.

14. In her reply to the show cause notice issued by the District Programme Officer, Samastipur as contained in Annexure-10 dated 08.07.2009, petitioner submitted her reply as contained in Annexure-11 dated 18.08.2009, in which she has admitted that due to departmental negligence, she is not attending the monthly meeting. Due to differences with the President of Posahar Distribution Committee, Posahar is not being distributed among the beneficiaries. She is unable to attend Pulse Polio Programme but she was not permitted to put her signature, as such she has left attending said scheme. The District Magistrate, Samastipur, in his order dated 14.01.2010 as contained in Annexure-14 has considered the report submitted by the C.D.P.O. Tajpur, Samastipur that the Centre No. 21 of the petitioner is closed for

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last one and a half year which is adversely affecting the scheme of the Government and petitioner is also not attending monthly meeting, Pulse Polio Programme and Muskan Programme and also has not submitted any application in respect of Mukhyamantri Kanya Suraksha Yojana for which petitioner was show caused and her explanation was not satisfactory and C.D.P.O thereafter recommended for her removal and in terms of guidelines issued by I.C.D.S, dated 03.10.2006 that if Anganwari Sewika remains absent for more than 15 days after asking explanation, she can be removed. The C.D.P.O can recommend her removal and accordingly, the District Magistrate on the grounds of irregularities, lack of interest and various irregularities and Centre being remained closed for last one and a half year has removed the petitioner.

15. The petitioner thereafter preferred appeal before the Commissioner, Darbhanga Division, Darbhanga, who by order dated 30.10.2012 has dismissed the appeal filed by the petitioner by a reasoned and speaking order, disclosing the reasons for her removal.

16. After hearing both the parties, this Court is not inclined to interfere in the order dated 14.01.2010 passed by the District Magistrate, Samastipur as contained in Annexure-14 as

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well as order dated 13.10.2012 passed by the Divisional Commissioner, Darbhanga Division, Darbhanga, on appeal being preferred by the petitioner and, accordingly, the writ petition stands dismissed.

(S. Kumar, J)

ranjan/-

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	24.05.2018
Transmission Date	N.A.

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