IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.12455 of 2017

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Taregana Devi, Wife of Sri Ram Prayag Singh, resident of Village- Dera, Gram Panchayat, Sotwan, P.S.- Nokha, District- Rohtas.

... ... Petitioner/s

Versus

1. The State of Bihar, Director Social Welfare Department, Government of Bihar, Patna.
2. The District Magistrate, Rohtas at Sasaram.
3. The District Programme Officer, Rohtas at Sasaram.
4. The Child Development Project Officer, Nokha, Rohtas.

... ... Respondent/s

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Appearance :
For the Petitioner/s : Mr. Mithilesh Kumar Upadhyay, Adv.
For the Respondent/s : Mr. Rajesh Kumar, GP3

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY
ORAL JUDGMENT
Date : 13-12-2018

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

In this case, the petitioner is challenging the action of the Department refusing to run the Anganwari Center by an oral order but, at the same time, the Child Development Officer, Nokha, Rohtas vide letter no. 115 dated 6.7.2018, directed to recover the amount of Rs. 2,78,387/- on the ground that she had obtained her appointment using certificate of her deceased Sautan. So, it is a case of impersonation which is serious issue.

The petitioner was appointed in the Anganwari Sevika in the year 1997-98, all along she continued to discharge the duty on that post, never any finger was raised against the petitioner but, the

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Child Development Programme Officer got an information that the petitioner has obtained her appointment utilizing the certificate of her deceased Sautan.

As per State, the enquiry was conducted by the S.D.O., Sasaram who submitted his report to the District Magistrate, Rohtas, Sasaram dated 15.5.2018 wherein he has recorded that the allegation made against the petitioner is establishes and proper decision may be taken but, there is no denial of the fact that the petitioner was not given any notice for participation in the enquiry conducted by the S.D.O. and it is an ex-parte enquiry culminated to a finding by the S.D.O., cannot be put to action as the same violates the basic principle of giving notice to the aggrieved person.

Learned counsel for the petitioner submits that though there is a written order for recovery but, there is no order for disengagement of the petitioner from the services of Anganwari Sevika.

Learned counsel for the State has submitted that in view of the interim order passed in this case in her favour, no recovery has been made from the petitioner.

Be that as it may, the question in the present case has two facets, first is that the enquiry has been conducted without

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giving any notice, cannot be said to be a legal procedure has been followed in view of the fact that before taking a decision, the authority is required to at least follow the minimum level of principle of natural justice by way of asking a show-cause but, that has not been done in the present case and, inasmuch as, a very serious allegation of impersonation has been imputed, it requires deep enquiry and it is the petitioner who has to prove his identity before the enquiry officer that the document on the strength of which she has obtained the engagement of Anganwari Sevika is legal and the authority concerned will decide the issue of identity of the petitioner. But, the question is that the C.D.P.O. vide order dated 6.7.2018 has directed for recovery of the amount of Rs. 2,78,387/- cannot be held to be legal and justified as it has been claimed by the petitioner that she has all along worked and against that she has been given honorarium at the rate of Rs. 15/- per day.

Let the Collector, Rohtas at Sasaram, after giving notice to the petitioner and all the parties concerned, decide the issue of identity of the petitioner as to whether she is Lalsa Devi or Taregana Devi. If the Collector arrives to a finding that she is not Lalsa Devi but Taregana Devi, in such circumstances, she will continue to discharge the duty as Anganwari Sevika but, in the event the findings goes against the petitioner, the recovery of the

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amount will be considered in the context of the fact that she has been paid the honorarium against the work done by her, accordingly, the authority will take a decision in the light of the aforesaid background with regard to recovery of the amount from the petitioner.

For the present, the recovery is stayed but, the decision will be taken by the Collector after recording the findings about the status of the petitioner.

With the aforementioned observation and direction, this writ application is disposed of.

(Shivaji Pandey, J)

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AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	20.12.2018
Transmission Date	

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