

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10705 of 2013

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Usha Kumari Wife Of Prakash Kumar Resident Of Village - Gajasarai, Police
Station - Islampur, District - Nalanda

... .. Petitioner/s

Versus

1. The State Of Bihar Through The Principal Secretary, Social Welfare
Department, Government Of Bihar, Patna
2. The Director, I.C.D.S. Directorate , Social Welfare Department, Government
Of Bihar, Patna
3. The Commissioner, Patna Division, Patna
4. The District Magistrate, Nalanda
5. The District Programme Officer, Nalanda
6. Child Development Project Officer, Islampur, District - Nalanda
7. Rekha Kumari Wife Of Subodh Kumar Resident Of Village - Murgiachak,
Police Station - Islampur, District - Nalanda

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Lovekush Kumar
For the Respondent/s : Mr. DEVENDRA KR SINHA

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CORAM: HONOURABLE MR. JUSTICE S. KUMAR
ORAL JUDGMENT

Date : 19-03-2018

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

This writ petition under Article 226 of the Constitution
of India has been filed for quashing the order dated 25.06.2012
passed by the D.P.O., Nalanda, terminating the services of the
petitioner from the post of Anganwari Sewika, order dated
28.08.2012, passed by the District Magistrate, Nalanda in Misc.
Anganwari Case No. 124 of 2012 and order dated 20.12.2012,
passed by the Commissioner, Patna Division, in Miscellaneous



Appeal No. 424 of 2012, rejecting the revision application of the petitioner.

Briefly stated, the facts of the case is that the petitioner was appointed on the post of Anganwari Sevika at Gajasarai Centre Code No. 177 within Islampur block in the district of Nalanda. The C.D.P.O., Islampur on 14.05.2012 inspected the Anganwari Centre, Gajasarai Code No. 177 and found large scale irregularity at the Centre. C.D.P.O. Islampur, prepared the report and send it to the District Programme Officer, Islampur, Nalanda (Annexure-1) regarding irregularities found at the Anganwari Centre of the petitioner. In the report addressed to the District Programme Officer, Islampur, Nalanda, it has been alleged that Posahar was not being prepared at the Centre. Anganwari Sevika herself used to cook Posahar at the Centre. Anganwari Sahaika disclosed that she is not preparing the Posahar at the Centre from last three years. She also found irregularities in distribution of Poshak and T.H.R for which a complaint made by the beneficiaries was enclosed and thereafter she recommended the removal of petitioner from post of Anganwari Sevika. The District Programme Officer, by memo no. 1944 dated 24.05.2012 issued a show cause notice to the petitioner with respect to irregularities found at the Centre, as reported by the C.D.P.O., in which it has been stated that Posahar is not being



prepared at the Centre and petitioner (Anganwari Sevika) used to cook Posahar at her own house and Anganwari Sahaika stated that for last three years she has not cooked food. There are allegations of irregularity in distribution of T.H.R and dress among the beneficiaries and petitioner was asked to submit her reply on 02.06.2012. Pursuant to said show cause, petitioner appeared before the District Programme Officer, Islampur, Nalanda and denied all the allegations alleged against her. She produced the dress and T.H.R distribution register which was endorsed by the Ward Parshad and social audit was done by the Vigilance Committee and the same was distributed in presence of Social Auditing Vigilance Committee. However, she admitted the allegation of Anganwari Sahaika that for the last three years, she has not cooked food, is true, as she used to demand rupees for cooking the food and she had made oral complaint for this, number of times but no step was taken against the Sahaika and since then she used to cook herself Posahar and distribute it among the children at the Anganwari Centre and in support of her defence, she produced the Vigilance Register, Inspection Register as well as Social Audit Report and other Registers showing distribution among the beneficiaries of T.H.R and dress among the children, and in her reply of show cause, she had also enclosed statement of



beneficiaries and locals, who admitted that the Centre was being run properly and there was no irregularity either in distribution of dress among the children or Posahar. However, Anganwari Sevika and Anganwari Sahaika appeared before the District Programme Officer on 02.06.2012 and produced evidence with respect to proper functioning of Anganwari Centre and proper distribution of T.H.R, preparation of Posahar and distribution of dress among the children. Anganwari Sahaika in her reply stated that since her appointment, for last three years she has not cooked Posahar and earlier the Anganwari Centre was away from the residence of Anganwari Sevika and thereafter Anganwari Sevika managed to transfer it near her house where she used to cook and store Posahar in her residence and thereafter the same was distributed among the children coming at the Centre. As per Sahaika, she was given the task of teaching the children at the Centre as she was more qualified than Anganwari Sevika.

By order dated 02.06.2012, the District Programme Officer, Nalanda, by his order dated 09.06.2012 imposed punishment of recovery of amount of 25 per cent of T.H.R and thereafter in a report submitted on 11.06.2012, by the C.D.P.O, Islampur, in which it has been stated that for the last three years no Posahar is being cooked there, rejected the defense of the petitioner



and the order of removal from service was passed. Against the order of removal passed by the D.P.O.,Nalanda, petitioner appeared before the District Magistrate, Nalanda, who also without considering the facts, on presumption that no Posahar was being distributed among the children for the last three years, on erroneous and unsubstantiated ground, dismissed the appeal of the petitioner and the revision filed by the petitioner also made the same fate by the Revisional Authority, i.e. the Divisional Commissioner, Patna.

After hearing the parties and perusing the materials available on record, it appears that the order has been passed by the authorities on total non application of mind and without even advertng to the materials available on record. There is no allegation or finding that the Posahar was not distributed among the children and the allegation was that only it was being cooked at the residence of the petitioner-Anganwari Sevika. The allegation of non distribution of T.H.R and dress was not substantiated by the evidence on record.

In that view of the matter, the order dated 25.06.2012 passed by the D.P.O., Nalanda, order dated 28.08.2012, passed by the District Magistrate, Nalanda and order dated 20.12.2012, passed by the Commissioner, Patna Division, are quashed.



Petitioner is directed to be reinstated in service with full back wages.

The petition stands allowed.

(S. Kumar, J)

ranjan/-

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	21.03.2018
Transmission Date	N.A.

