

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5007 of 2013

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1. USHA KUMARI W/O ARBIND PRASAD RESIDENT OF VILLAGE MILKIPAR, P.S. EKANGARSARAI, DISTRICT NALANDA.
 2. SURUCHI KUMARI W/O DINESH PRASAD RESIDENT OF VILLAGE MILKIPAR, P.S. EKANGARSARAI, DISTRICT NALANDA.

... .. Petitioner/s

Versus

1. The State Of Bihar.
2. District Magistrate, Nalanda.
3. District Programme Officer, Nalanda.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Awadhesh Prasad Sinha
For the Respondent/s : Mr. Sanjay Kr No.1

CORAM: HONOURABLE MR. JUSTICE S. KUMAR
ORAL JUDGMENT

Date : 02-05-2018

This writ petition under Article 226 of Constitution of India has been filed for quashing the order dated 19.4.2012 passed by District Programme Officer, Nalanda, by which services of petitioners have been terminated as well as order dated 4.9.2012 passed in Appeal No. 81 of 2012 by the District Magistrate, Nalanda, dismissing the appeal filed by petitioners.

2. Briefly stated the case of petitioners is that petitioner no. 1 was appointed as Aanganwari Sevika of Milkipar Centre and petitioner no. 2 was appointed as Aanganwari Sahayika in the said Centre having Code No. 71.

3. The District Programme Officer, Nalanda, terminated the services of petitioners vide order dated 19.4.2012. Against



which petitioners preferred an appeal before the District Magistrate, Nalanda, being Misc. Appeal No. 81 of 2012 and same was dismissed by District Magistrate, Nalanda, by order dated 4.9.2012.

4. The Petitioners were discharging their duties with devotion and to the satisfaction of all when suddenly by order dated 19.04.2012 the services of petitioners were terminated without any show cause notice and without any allegation by the District Programme Officer by his order dated 19.04.2012.

5. The order of removal dated 19.04.2012 passed by District Programme Officer is based upon an inspection of the Center done by Child Development Project Officer on 14.02.2012.

6. The Centre was inspected on 14.2.2012 by the Child Development Project Officer, Ekangarsarai, and it was reported that both petitioners (Aanganwari Sevika and Aanganwari Sahayika) were present at the Centre and number of children present were 20 but without any show cause notice issued to the petitioners, the services of petitioners were terminated on basis of previous inspection reports of Lady Supervisor in which it was found that on inspection made by Lady Supervisor the number of children present at the Center on 07.01.2012, 11.01.2012 and 23.01.2012 were 0, 16 and 5, however, no show cause or



explanation was asked from petitioner with respect to inspection made by Child Development Project Officer on 14.02.2012 or copy of inspection report was given as nothing adverse was found in the inspection report against petitioner.

7. Petitioners had filed appeal before the District Magistrate and District Magistrate had taken note of the fact that on 7.1.2012, 11.1.2012 and 23.1.2012 the Centre was inspected by the Lady Supervisor and number of children found present were 0, 16 and 5 for which show cause, as contained in Annexure-1, was issued and after considering the reply of petitioners that due to intense cold the presence of children at the Centre was low. The District Programme Officer, Nalanda, imposed the punishment of warning and stoppage of salary of 3 months to the petitioners. The District Magistrate, the Appellate Authority, has taken note of the fact that on the basis of same inspection report, three different punishment orders have been passed by the District Programme Officer, however, still appeal of petitioners was dismissed.

8. A counter affidavit has been filed on behalf of respondents in which it has been stated that petitioners were appointed as Aanganwari Sevika and Aanganwari Sahayika in Aanganwari Centre Code No. 71 and Centre was inspected by



Child Development Project Officer, Ekangarsarai, on 14.02.2012 and both petitioners and 20 children were found present.

9. Earlier also Center was inspected by Lady Supervisors on 07.01.2012, 11.01.2012 and 23.01.2012 and during inspection number of children were found 0, 16 and 05 and thereafter by order dated 19.04.2012 they were removed from service and appeal preferred before District Magistrate was also dismissed. The previous conduct of petitioners was also not found satisfactory and thereafter fresh selection has been made and new Aanganwari Sevika and Aanganwari Sahayika have been appointed in their place.

10. The order passed by the District Programme Officer taking into consideration the previous inspection report, for which punishment were already imposed and without issuing any show cause notice pursuant to inspection date 14.02.2012 by the Child Development Project Officer, Ekangarsarai, the order of removal is not sustainable.

11. A fresh guideline has also been issued by the ICDS in which it has been stated that if there is presence of less than 14 children, steps for removal of Aanganwari Sevika and Aanganwari Sahayika can be taken if for low attendance no sufficient cause is shown by Aanganwari Sevika and Aanganwari Sahayika.



12. It has not been disputed by the Authorities that on the basis of same inspection report three different orders have been passed by the District Programme Officer, Nalanda, and last order being 19.04.2012 by which services of petitioners have been removed and although the Appellate Authority has taken note of it but has not chosen to interfere with the order of removal of petitioners.

13. After hearing the parties and going through the materials available on records, it is apparent that Annexure-1 which is dated 27.1.2012 issued by the District Programme Officer, Nalanda, petitioners were show caused to explain the low presence of children on 7.1.2012, 11.1.2012 and 23.1.2012 and they were directed to appear on 6.2.2012 with their defence and explanation and after hearing petitioners the District Programme Officer had imposed punishment of warning and stoppage of salary for three months, however, Annexure-3 which is the subsequent order passed by the District Programme Officer dated 19.4.2012 in which he has considered the inspection report dated 14.2.2012 of Child Development Project Officer, Ekangarsarai, and it has been alleged that without issuing any show cause notice the impugned order has been passed taking into account the previous inspection report and petitioners have been removed from



services and appeal filed by them has been rejected by the District Magistrate.

14. In view of the facts as stated above, the order dated 19.04.2012 passed by the District Programme Officer, Nalanda, and order dated 04.09.2012 passed by the District Magistrate, Nalanda, is not sustainable in the eye of law and is accordingly quashed and matter is remitted to the District Programme Officer to pass a fresh order in accordance with law and procedure as prescribed under ICDS guidelines after hearing all the parties including the fresh appointees on basis of which fresh appointment shall be made. The writ petition is allowed to the extent as indicated above.

(S. Kumar, J)

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Transmission Date	

