

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9877 of 2017

=====

1. Manwra Khatoon Wife of Abdul Rafique, Resident of Village-Dighli,
P.s. Paharkatta, Block-Pothia, District Kishanganj.

.... Petitioner/s

Versus

1. The State of Bihar
2. The Principal Secretary, Department, of Social Welfare, Government of Bihar, Patna
3. The Director, Integrated Child Development Services, Government of Bihar, Patna.
4. The Commissioner, Purnea Division, Purnea.
5. The Joint Commissioner-cum-Secretary, Regional Transport Authority, Purnea Divisional, Purnea.
6. The District Magistrate, Kishanganj
7. The District Programme Officer, Kishanganj
8. The Child Development Project Officer, Pothia, Kishanganj

.... Respondent/s

=====

Appearance :

For the Petitioner/s : Mr. Ajey Kumar

For the Respondent/s : Mr. Md. Raisul Haque-Sc10

=====

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

- 2 16-04-2018 1. The petitioner, by way of the present writ petition, has challenged the order dated 05.01.2015 passed by the District Programme Officer, Kishanganj whereby and whereunder, the petitioner has been removed from the post of *Aanganbari Sewika*. The appellate order dated 03.04.2017 is also under challenge.
2. The brief facts of the case are that the petitioner herein was proceeded on account of her being not in the departmental uniform when the inspection was made at the Centre. It was further found that at the time of inspection, the number of



children present there was zero, however by 9.45 am, 15 children had come. The Centre was not found to be clean, as far as the Assistant (*Sahayika*) is concerned, she was found to be not present at the Centre too.

3. By the impugned order dated 05.01.2015, the petitioner has been punished with removal from the post of *Anganwari Sewika* on the ground of aforesaid dereliction in duty on her part. The said order dated 05.01.2015 has been upheld in appeal by order dated 03.04.2017.

4. The learned counsel for the petitioner submits that the punishment is disproportionate to the offence alleged, hence the impugned orders are fit to be set aside on this very sole ground only. It is further submitted that according to the departmental guidelines, it is required, during the course of the departmental inquiry, to take evidence of atleast three beneficiaries, however in the present case, none of the beneficiaries has been examined as witness, hence the present case is a case of no evidence. It is further submitted that the *Sahayika* who was found absent from the Centre, has been lightly let-off by imposing a fine of Rs. 500/- on her, hence it is submitted that the respondents have discriminated in the matter of awarding of punishment.



5. *Per contra*, the learned counsel for the State has referred to the guidelines issued by the Director, I.C.D.S., Bihar dated 14.03.2012 whereby and whereunder, it has been directed to impose similar punishment in similar situation. It has been also stated that in the present case, the authorities are vested with the power to inflict punishment of removal.

6. Having heard the learned counsel for the parties and upon perusal of the materials on record, I find that the punishment of removal from service is definitely quite harsh and not commensurate to the charges framed against the petitioner herein. I further find that in the present case, the respondents have discriminated inasmuch as, while the *Sahayika* was not present in the Centre, still the respondents have imposed a fine of Rs. 500/- only, however the petitioner herein, who was present at the Centre, has still been removed from the service. The guidelines referred to by the learned counsel for the respondents definitely appear to be directory in nature and not mandatory and that is why the *Sahayika* was not removed from service and was punished only with a fine of Rs. 500/-.

7. For the reasons mentioned hereinabove, the order passed by the Collector, Kishanganj dated 05.01.2015 and the order passed by the appellate authority dated 03.04.2017 are



quashed and set aside. However, the authorities are granted liberty to pass appropriate orders as far as the quantum of punishment is concerned after giving an opportunity of hearing to the petitioner herein.

8. The writ petition is allowed.

(Mohit Kumar Shah, J)

rinkee/-

U			
---	--	--	--

