

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.425 of 2018

=====

Rinku Kumari, wife of Shri Puspendra Kumar, resident of Village and P.O.-
Aguwani, P.S.- Parbatta, District- Khagaria.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Social Welfare Department, Bihar Government, Patna.
2. The Director, Integrated Child Development Services, Social Welfare Department, Government of Bihar, Patna.
3. The District Magistrate, Khagaria.
4. The District Programme Officer, Khagaria.
5. The Child Development Project Officer, Parbatta Block, District- Khagaria.

... .. Respondent/s

=====

Appearance :

For the Petitioner/s	:	Mr. Kulanand Jha, Adv. Mr. Jai Kishore Poddar, Adv. Mr. Alok Kumar Choubey, Adv.
For the Respondent/s	:	Mr. Md. Raishul Haque -SC10

=====

CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY
ORAL JUDGMENT

Date : 24-07-2018

Heard learned counsel for the parties.

In this case, the petitioner is challenging the order dated 27.8.2016 passed by the District Programme Officer, Khagaria in Case No. 28/2016, whereby and whereunder, the services of the petitioner has been terminated on the post of Sevika. Further prayer has been made for quashing the order dated 1.8.2017 in Anganbari Case No. 11/2016-17, whereby the District Magistrate, has dismissed the appeal and affirmed the order passed by the District Programme Officer, Khagaria.



In the present case, the joint team inspected the center on 2.8.2016 wherein it was found that only eight children without uniform were present whereas the attendance was of 40 students. Explanation has been sought from the petitioner, as has been replied by her that it was the time for lunch, the students had gone to take their utensils as well as due to rainy season, their washed cloths were not dried up and, hence there were not in uniform and, on that account, only 8 boys were found physically present.

The explanation was not accepted by the District Programme Officer and passed the order dispensing her services.

The appellate authority also refused to interfere in the matter.

Learned counsel for the petitioner submits that it was the first mistake being committed by the petitioner and there is no allegation of misappropriation or any wrong doing of a higher gravity against her. In such circumstances, the punishment is out of proportion, requires interference of this Court. He has also placed reliance on two orders passed by this Court in C.W.J.C. No. 23835 of 2012 (Manju Kumari Vs. The State of Bihar & Ors.) and C.W.J.C. No. 5717 of 2017 (Sharda Kumaari Vs. The State of Bihar & Ors.) wherein the Court has interfered with the order of punishment and passed a lessor quantum of punishment.



The State has submitted that on the proved charge, the petitioner can be awarded punishment from censure to dismissal and it was found that the attendance was shown of 40 students but only of 8 students were found physically present. So the authority has not committed any wrong in dispensing the services of the petitioner.

As the punishment varies from censure to dismissal, taking into consideration the aforesaid judgments, this Court is of the view that the penalty imposed against the petitioner is very extreme penalty. In that view of the matter, the order dated 27.8.2016 passed by the District Programme Officer, Khagaria and the order dated 1.8.2017 passed by the Collector are set aside and the matter is remanded back for passing an order commensurate with the gravity of the charges.

In the result, this writ application stands allowed to the extent indicated above.

(Shivaji Pandey, J)

rishi/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	02.08.2018
Transmission Date	NA

