

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16188 of 2018

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Punam Kumari @ Punam Devi, Wife of Anil Kumar Singh, Resident of
Village-Chakia, P.S. Dhansoi, District-Buxar.

... .. Petitioner

Versus

1. The State of Bihar through the Secretary, Welfare Department, Government of Bihar, Patna.
2. The Director, I,C,D,S, Directorate, Govt. of Bihar, Patna.
3. The District Magistrate, Buxar.
4. The District Programme Officer, Buxar.
5. The Child Development and Programming Officer, Rajpur, District-Patna.
6. Asha Kumari, Wife of Surendra Prasad Singh, Resident of Village-Chakia, Block Rajpur, P.S. Dhansoi, District-Buxar.

... .. Respondents

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Appearance :

For the Petitioner/s	:	Mr. Siyaram Sahi, Advocate Mr. Bijay Shankar Choubey, Advocate
For the Respondent/s	:	Mr. Prashant Pratap- GP-2 Mr. Asit Kumar Jha, A.C. to G.P.-2

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY
ORAL JUDGMENT

Date : 19-11-2018

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

2. In this case, the petitioner is challenging the order dated 16.05.2018 passed by the District Magistrate, Buxar, in Appeal No.17 of 2018, whereby and whereunder he has decided the appeal in favour of Asha Kumari, respondent no.6.

3. The short facts of this case are that an advertisement was published for the selection of Anganbari



Sevika for centre no.140 and Asha Kumari, respondent no.6, was selected and started working, but later on, she was terminated from the post of Anganbari Sevika, which was challenged in Miscellaneous Appeal No.105 of 2012 and the appeal was decided by the Deputy Director, Welfare, Patna Division, Patna, thereby the appeal was rejected. Against that order, the petitioner approached this Court in C.W.J.C. No.19389 of 2013 and I myself has passed the judgment and order dated 14.12.217, whereby quashed the order of the Deputy Director and remanded back the matter to the District Magistrate, Buxar, having held that the Deputy Director, Welfare, Patna Division, Patna, does not have a jurisdiction to decide the appeal whereas the Collector is authorized to hear and decide the appeal. In pursuance thereof, the District Magistrate, Buxar, decided the case in favour of Asha Kumari, respondent no.6, and directed her to join the post of Anganbari Sevika and accordingly, she has been reinstated as on today.

4. It has been submitted by the petitioner that when Asha Kumari was out of job a fresh advertisement was published and against that advertisement she applied for the post of Anganbari Sevika and she was appointed against that advertisement. Grievance has been raised by the petitioner that



before taking any such decision by the Collector the present petitioner should be heard as she was legally appointed as Anganbari Sevika and ultimately she has unseated. But, the question in the present case is that Asha Kumari was appointed against another advertisement, the petitioner was not in fray, and her appointment was cancelled, subsequently which was found illegal by the Collector and accordingly, she has been reinstated in service. At the time of birth of Asha Kumari, the present petitioner was nowhere, it is only during the interim period when Asha Kumari was booted out from the service, the present petitioner has been inducted against fresh advertisement.

5. Identical issue came for consideration before the Hon'ble Supreme Court in the case of *Poonam vs. State of Uttar Pradesh and Others* reported in (2016) 2 SCC 669, this case is by and large nearer to the facts of the present case as in that case also during the interim period, private respondent was terminated and Poonam Kumari was appointed as P.D.S. dealer and the issue raised before the Hon'ble Supreme Court that she has some right to be heard, without following the principle of natural justice, private respondent was reinstated, that led to removal of Poonam Kumari. The Hon'ble Supreme Court held that Poonam Kumari was neither a necessary party nor a proper



party, there was no requirement of giving any hearing to Poonam Kumar.

6. Taking same principle from the aforesaid judgement, applying the same in the present case, this Court is of the view that the present petitioner cannot claim that before passing the order the Collector was obliged to hear the present petitioner and as such, this Court does not find any merit in the present petition. Accordingly, the same is dismissed. However, the petitioner is at liberty to approach before the District Magistrate, Buxar, who will see that the petitioner was appointed against the new advertisement, so if it is possible, she will be adjusted in another place in accordance with law.

(Shivaji Pandey, J)

pawan/-

AFR/NAFR	N.A.F.R.
CAV DATE	N/A.
Uploading Date	26.11.2018
Transmission Date	N/A.

