

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1960 of 2019

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Sushila Devi, wife of Jairam Singh, resident of Village and Post- Rupsagar,
P.S.- Navanagar, Dist- Buxar

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Social Welfare Department, Govt. of Bihar, Patna
2. The Principal Secretary, Social Welfare Department, Govt. of Bihar, Patna
3. The Director, ICDS, Patna
4. The District Magistrate-cum-Second Appellate Authority, Public Grievance, Dist- Buxar
5. The Additional Collector-cum-Appellate Authority, Public Grievance, Dist- Buxar
6. The Sub Divisional Public Grievance Redressal Officer, Dumraon, Dist- Buxar
7. The Child Development Project Officer, Nawanganar, Dist- Buxar
8. The District Programme Officer (Establishment), Buxar
9. Bindeshwari Singh Resident of Village and Post- Rupsagar, P.S.- Navanagar, Dist- Buxar

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Shekhar Singh, Adv
		Mr. Bijay Shankar Choubey, Adv
For the State	:	Mr. Md Raisul Haque (SC-10)

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CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
ORAL JUDGMENT

Date : 06-02-2019

The petitioner has challenged the order dated 23.08.2018 passed by the District Magistrate, Buxar in his capacity as Second Appellate Authority, Public Grievance Redressal, whereby the order passed by the Additional Collector-cum-Appellate Authority has been affirmed.

2. The Additional Collector-cum-Appellate



Authority, Public Grievance Redressal Cell, has directed the District Programme Officer, Buxar to remove the petitioner from the post of *Anganbari Sevika* and has further directed to take steps for recovery of money which has been paid to the petitioner by way of salary.

3. From the records, it appears that wife of respondent No. 9 was working as *Anganbari Sevika* at Centre No. 22, Mahto Toli, Rupsagar, Block-Nawanagar in the District of Buxar. Her appointment was cancelled on the allegation of embezzlement of the "Take Home Ration" meant for the beneficiaries of the scheme.

4. The petitioner was thereafter appointed as *Anganbari Sevika* after being adjudged the most appropriate candidate in the *Aam Sabha* which was called for the purpose. Since the wife of respondent No. 9 had been removed from the post of *Anganbari Sevika*, as a vindictive measure, respondent No. 9 made a complaint before the District Programme Officer, Buxar against the petitioner. The District Programme Officer, Buxar, after enquiring into the entire matter and after obtaining a report



from the Sanskrit Shiksha Board came to the conclusion that the certificates furnished by the petitioner was absolutely genuine and no interference was required with the appointment of the petitioner as *Anganbari Sevika*. Not satisfied with this, respondent No. 9 challenged the aforesaid order of the District Programme Officer, Buxar before the Public Grievance Redressal Cell. The Additional Collector, who is the First Appellate Authority again got the matter enquired and came to the conclusion that the certificates of the petitioner which was the basis for her appointment on the post of *Sevika* was fake and forged. The respondent No. 9 did not stop at that and further approached the Second Appellate Authority, Public Grievance Redressal Cell viz. the District Magistrate, Buxar for a direction to take such enquiry report to its logical conclusion/end by removing the petitioner from the post of *Anganbari Sevika*.

5. It appears that the District Magistrate, Buxar, not in his capacity as Second Appellate Authority under the rules for appointment and service condition of *Anganbari*



Sevika but as the Second Appellate Authority of the Public Grievance Redressal Cell, directed the District Programme Officer, Buxar to remove the petitioner from the post of *Anganbari Sevika* and take steps for recovery of salary which was paid to her for the period that she had worked for that post.

6. Pursuant to the aforesaid direction, the District Programme Officer, Buxar, vide order dated 07.09.2018 contained in Annexure-16 to this writ petition has terminated the appointment of the petitioner as *Anganbari Sevika* and has initiated the process of recovery of the salary paid to her up till now.

7. Mr. Shekhar Sigh, learned counsel for the petitioner has submitted that the orders passed by the First Appellate Authority of the Public Grievance Redressal Cell, the Second Appellate Authority and the consequent order of the District Programme Officer, Buxar are unsustainable in the eyes of law. Once a complaint was lodged against the petitioner by respondent No. 9 before the District Programme Officer, Buxar and the District Programme



Officer, Buxar had found that the appointment of the petitioner was valid and the allegation of her having furnished fake educational certificate was wrong, the issue ought to have rested there. In case respondent No. 9 was not satisfied with the aforesaid order of the District Programme Officer, Buxar, the only option for him was to agitate before the Second Appellate Authority i.e. before the District Magistrate-cum-Collector, Buxar. Not having done so and approaching the Public Grievance Redressal Cell was only for the purposes of forum hunting and any order passed by the authorities of Public Redressal Cell in such circumstances was a nullity in the eyes of law.

8. Similarly, any order passed by the Second Appellate Authority, even if that authority be the Collector who is Second Appellate Authority under the guidelines/rules governing the service of *Anganbari Sevikas* and *Sahayikas*, is without any jurisdiction.

9. If these two orders, referred to above do not have any legal force, the natural corollary would be that the order passed by the District Programme Officer, Buxar,



removing the petitioner from the post of *Anganbari Sevika* cannot be enforced and executed as being unsustainable in law.

10. It has long been settled that in case of any complaint against the appointment of any person on the post of *Anganbari Sevika/Sahayika* as the case may be, the first forum to agitate is that of the District Programme Officer and the Second Appellate Authority is the District Magistrate. The forum of Public Grievance Redressal Cell is not meant for agitating any grievance with respect to appointment/service condition of *Anganbari Sevika/Sahayika*.

11. For the aforesaid reasons, the order passed by the First and Second Appellate Authority of Public Grievance Redressal and consequent order of the District Programme Officer, Buxar dated 07.09.2018 are set aside as being absolutely without jurisdiction.

12. Since respondent No. 9 has not been noticed in the present case and this case is being disposed off in the first instance at the threshold, the matter is remitted to



the District Programme Officer, Buxar to enquire into every aspect afresh and then pass an order. It would be obligatory on the part of the District Programme Officer to notice respondent No. 9, on whose complaint the petitioner was removed from the service. Only after hearing the petitioner and respondent No. 9 and taking into account all necessary facts, an order shall be passed by the District Programme Officer, Buxar.

13. Till the proceedings before the District Programme Officer, Buxar is concluded, the petitioner shall be allowed to continue as *Anganbari Sevika* and till then no recovery shall be made.

14. For completing the process, the petitioner is directed to approach the District Programme Officer, Buxar within a period of two weeks along with a copy of this order, whereafter proceedings would be initiated by the District Programme Officer, Buxar within a period of two weeks of receipt of such application and be concluded after hearing the petitioner and respondent No. 9, preferably within a period of six weeks thereafter.



15. With the aforesaid direction, the writ petition
is allowed and disposed off.

(Ashutosh Kumar, J)

Shageer/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	07/02/2019
Transmission Date	NA

