

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.3396 of 2019

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Tripti Sinha, aged about 36 years, female, Daughter of Vijay Kumar, Resident of Sharmgivi Colony, Rajendra Nagar, P.S. Sampatchak, District-Patna.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. The Principal Secretary, Social Welfare Department, Govt. of Bihar, Patna.
3. The Joint Secretary, Social Welfare Department, Govt. of Bihar Patna.
4. The Director ICDS, Bihar, Patna.
5. The Joint Director, Social Welfare Department, Bihar, Patna.
6. The District Magistrate, Muzaffarpur.
7. The District Programme Officer, Muzaffarpur.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Tej Bahadur Singh, Sr. Adv.
Mr. Brisketu Sharan Pandey, Adv.
For the Respondent/s : Mr. Gyan Prakash Ojha (GA7)

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CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR

ORAL JUDGMENT

Date : 21-06-2019

The petitioner has challenged the order contained in notification dated 29.01.2019, bearing Memo No. 597, issued under the signature of the Joint Director (Headquarters), Social Welfare Department, Govt. of Bihar,



Patna, whereby the petitioner has been suspended under Rule 9 of the Bihar Government Servants (Classification, Control and Appeal) Rules, 2005 (*in short C.C.A. Rules, 2005*) as also for holding the charge framed against her by order dated 12.05.2018, contained in Memo No. 736, to be bad in law.

2. It appears that on several charges, the petitioner was suspended. Be it noted that the petitioner had been working as a C.D.P.O. and was charged with adopting a lax approach in appointment of Anganbari Sevikas/Sahayikas. The further allegation against her is of illegal collection of Rs. 2,500/- per month for putting her signature on the purchase register of the diet, meant for the beneficiaries.

3. Mr. Tej Bahadur Singh, learned senior Advocate for the petitioner, has submitted that such allegations were inquired into and the allegation of demanding money for signing on the purchased register and other grounds were not found to be correct. It was also found during enquiry that there was a correspondence



between the concerned authorities for not carrying out the process of appointment till the framing of new rules in that regard.

4. Be that as it may, only one charge has been framed against her, viz., for having delayed the appointment of 25 Anganbari Sevikas and 25 Anganbari Sahayikas in different wards, even though notification for such appointment had been published in various newspapers.

5. Mr. Singh, learned senior Advocate has submitted that the order of suspension is bad in the eyes of law in as much as during the period when the charge was framed and the departmental proceeding was afoot, the petitioner stood suspended on various other grounds also. After the suspension, such grounds were examined and were not found to be true. Precisely for this reason, there was no alteration in the charge which was framed and the departmental proceeding has commenced by the appointment of the Enquiry Officer as well as the Presenting Officer.

6. The effort of the petitioner has been to



demonstrate before this Court that even the existing charge which is required to be proved against her has actually been found to be non-existent for the reason that it was only on the direction of the Collector and the Social Welfare Department that the process of appointment was delayed, notwithstanding the publication of notification in various newspapers. The framing of the Rules was in the offing and, therefore, a communication was made between the concerned authorities not to proceed with the appointment of such functionaries of the Panchayat. In this background, it was not open for the petitioner, in her capacity as C.D.P.O., to proceed with the appointment process.

7. The above explanation was given by the petitioner, but even then, such charge was thrust upon the petitioner for subjecting her to departmental proceeding.

8. In any view of the matter, the aforesaid correspondence between the authorities would be a ready defense for the petitioner. However, for that reason, this Court does not deem it appropriate to revoke the suspension or to quash the departmental proceeding.



9. Since the departmental proceeding has commenced and the Presenting Officer also has been appointed, this Court expects and, therefore, directs that the proceedings be concluded as early as possible, preferably within a period of three months from the date of production of a copy of this order before the Disciplinary Authority. Such time frame has been fixed by this Court, keeping in mind the submission of the petitioner that all the documents which are to be looked into have been furnished by the petitioner before the Disciplinary Authority.

10. Needless to state that during the period of suspension, the petitioner would be paid the subsistence allowance to which she is entitled. This Court has been informed today that despite an earlier order of this Court, the subsistence allowance has not been paid to her. This is an act of recalcitrance which cannot be countenanced.

11. It would be open for the petitioner to approach this Court, if there is no resumption of the subsistence allowance to her during the period of suspension.



12. With the aforesaid observation/direction, the writ petition stands disposed off.

(Ashutosh Kumar, J)

Praveen-II/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	26-06-2019
Transmission Date	N/A

