

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No 12082 of 2014

=====

Rekha Devi, wife of Prakash Bishwas, resident of village- Sonbarsa Raj,
Police Station- Sonbarsa Raj, District- Saharsa, Ward No 5, (Centre No 4),
Centre- Kewat Tola, Panchayat Sonbarsa, District- Saharsa

... .. Petitioner/s

Versus

1. The State Of Bihar through the Director, Social Welfare/I.C.D.S., Bihar, Patna
2. The Deputy Director, Social Welfare/I.C.D.S., Bihar, Patna
3. The Assistant Director, Social Welfare, I.C.D.S., Bihar, Patna
4. The Secretary, Government of Bihar, Social Welfare Department, Bihar, Patna
5. The Area Development Officer, Koshi Division, Saharsa
6. The District Programme Officer, Saharsa
7. The Child Development Project Officer, Sonbarsa Raj, Police Station- Sonbarsa Raj, District- Saharsa
8. Gunjan Kumari, W/o Jitendra Vishwas, Resident of Village Sonbarsa , Ward No. 11, P.S. Sonbarsa, District- Saharsa.

... .. Respondent/s

=====

Appearance :

For the Petitioner/s	:	Mr Viveka Nand Singh, Advocate
For the S t a t e	:	Mr Mritunjay Kumar, AC to AAG VI
For Respondent No 8	:	Mr Rabindra Prasad Singh, Advocate

=====

CORAM: HONOURABLE MR JUSTICE MADHURESH PRASAD

ORAL JUDGMENT

Date : 16-07-2019

Heard Mr Vivekanand Singh for the petitioner as well as learned State Counsel Mr Mritunjay Kumar and learned counsel appearing for respondent No 8 Mr Rabindra Prasad Singh.

2 Petitioner has assailed the order whereby her selection as Angan Bari Sevika for Center No 4, Kewat Tola has been cancelled by the respondent-authorities.



3 Short submission raised by the petitioner's counsel is that the petitioner was proceeded against on account of an inspection report dated 13.05.2013. Allegations found therein are in relation to insufficient preparation of meal and that health check up and education were not being properly carried out at the Center in question.

4 In this connection, Mr Singh draws attention of this Court towards the report dated 13.05.2013 for Center No 176 which is at serial No 3. He points out that the allegations in respect of Center No 176 were similar to that which was reported for the petitioner's Center which is at Serial No 4.

5 Decision of this Court in CWJC No 12333 of 2014 which is a decision in respect of Center No 176 for which the report is at serial No 3 of the same document dated 13.05.2013 is relied upon by petitioner. Bibha Devi was Angan Bari Sevika of Center No 176. The relevant portion of the order dated 08.04.2019 passed in CWJC No 12333 of 2014 is being reproduced herein:

“5 Quantum of punishment, unless it is shocking to the conscience and grossly disproportionate to the allegation and finding, is not to be interfered with by Courts exercising jurisdiction under Article 226 of the Constitution of India. This Court in the case of Sabita Kumari -Versus- State of Bihar & Others (CWJC No 308 of 2015), has already held that even if the Sevika is absent for one day then, in the circumstance, the lapse is not such so as to warrant the extreme punishment of the selection being



cancelled. In the instant case, the Authorities have not reported absence of the petitioner but lapses which are lesser than absence as taken note of herein above, on a particular date when the Center was inspected. The petitioner has also raised mitigating circumstances regarding her illness in the morning. The circumstances are such that would require reconsideration on the issue of the quantum of punishment.

6 Having regard to the decision of this Court in the case of Sabita Kumari (supra), this Court would direct the Regional Development Officer, Koshi Division, Saharsa should reconsider the punishment awarded to the petitioner having regard to the decision of this Court, taken note of herein above, including the mitigating circumstances raised by the petitioner as also the fact that earlier there is no instance of any lapse having been reported in respect of the petitioner's Center. The decision should be taken by the Authority to award a lesser punishment, which would be commensurate to the lapse and with due regard to the considerations, taken note of herein above, within a period of eight weeks from the date of receipt/production of a copy of this order.

7 Writ petition is disposed of with the aforesaid directions."

6 This Court is of the opinion that report in the case of the petitioner is in no way more severe than that of the report of Bibha Devi (supra).

7 Whether the petitioner had sufficient grounds and whether the petitioner had any mitigating circumstance which could be considered by the authorities is an issue which is yet to be considered by the authorities themselves.

8 Writ petition is, therefore, disposed of.



9 Matter, therefore, requires to be considered by respondent No 5 who has passed the appellate order against the petitioner. The punishment may be reconsidered by the said Authority after hearing the necessary parties having regard to the judgment in the case of Bibha Devi, taken note of in this order.

10 Parties agree that they will appear before respondent No 5 on 05.08.2019 to facilitate consideration of quantum of punishment.

11 Respondent No 5 should pass a reasoned and speaking order in accordance with law expeditiously and preferably within eight weeks thereafter.

(Madhuresh Prasad, J)

M.E.H./-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	23.07.2019
Transmission Date	NA

