

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.12049 of 2014

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Sanju Devi Wife of Saroj Paswan Resident of Village - Pipra Bangla Bigha,
P.S. and District - Arwal

... .. Petitioner/s

Versus

1. The State Of Bihar and Ors
2. The Principal Secretary, Department of Social Welfare, Govt. of Bihar, Patna
3. The Director, I.C.D.S., Social Welfare Department, Govt. of Bihar, Patna
4. The Deputy Director, Welfare, Magadh Division, Gaya
5. The District Programme Officer, District - Arwal
6. The Child Development Project officer, District Arwal

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Abhay Kumar Thakur, Advocate Mr. Sukriti Kumar I, Advocate Mr. Arvnendra Kumar Thakur, Advocate
For the State	:	Mr. Rajesh Kumar, AC to GP 3

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CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

2 25-02-2019 On the fateful day i.e., 11.06.2013 when there is an alleged inspection of Anganwari Sevika center in question, the petitioner being the Sahayika was found absent. The Anganwari Sewika for the center in question was also absent. Both were proceeded against. The explanation based on illness furnished by the Anganwari Sewika has been accepted by the authorities. The petitioner's explanation based on the same factual basis that owing to illness of the Sewika the children of the village did not come to the center in question has not been acceded to by the respondent authority.

The specific case of the petitioner is that after



circulation of news regarding illness of Anganwari Sewika, the parents and guardians did not bring their children to the center in question. Petitioner being Sahayika had gone to fetch the students. She has submitted that after 9 O clock the functioning of the center remained as usual and even the take home ration was distributed on the same day subsequently. The said explanation offered by the petitioner has not been accepted by the authorities namely, the District Programme Officer, Arwal as also the Deputy Director, Welfare, Magadh Division, Gaya being the Appellate Authority. The same has been taken to be a misconduct for which the petitioner has been visited with severe punishment of cancellation of her selection. The same ground i.e, the ground of illness furnished by the Anganbari Sevika was accepted by the authorities. The petitioner whose explanation is also based on the consequences of absence of the Anganwari Sewika on account of her illness has not been accepted by the authorities.

Such a conclusion appears to be perverse and unsustainable in as much as it is the consequences of absence of the Sewika which has led to some delay in the activities at the center on the fateful day. That apart this Court would also consider that mere absence of one day has been held to be



insufficient ground for canceling the selection of Anganbari Sewika/Sahayika and extreme penalty of removal in such circumstance has been held to be disproportionate to the allegation/misconduct alleged or found. This has been decided in the proceedings arising out of CW.JC No. 308 of 2015 in the case of **Sabita Kumari v. the State of Bihar**.

For the reasons indicated herein above, this Court would hold that the orders passed by the authorities namely, District Programme Officer on 29.08.2013 in Case no. 8 of 2013 as well as the order dated 12.04.2014 passed in Anganwari Sahayika Appeal No. 62(K) of 2013 by the Deputy Director, Welfare, Magadh Division, Gaya are unsustainable for the reasons indicated herein above. The said two orders are quashed. As a consequence of quashing of the said two orders the petitioner would be entitled to consequential benefits including her reinstatement.

Writ petition is allowed.

(Madhuresh Prasad, J)

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