

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.7844 of 2019

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1. Sunita Prasad wife of Anil Kumar, resident of Village - Mali Tola Bherokhra, P.s. - Tajpur, District - Samastipur.
 2. Archana Verma wife of Sudhir Kumar resident of Village - Sirsiya Block-Tajpur, P.s. - Bangra, District - Samastipur.
 3. Ranju Kumari wife of Amit Kumar, resident of Ward No. 8, Kothia Srichandpur, Block-Tajpur, P.s. - Bangra, District - Samastipur.
 4. Sunita Kumari wife of Harideo Chaurasia resident of Ward No. 3, Kothia, Block-Tajpur, P.s. - Bangra, District - Samastipur.
 5. Tara Devi wife of Srinath Gupta resident of Village - Jogiyamath, P.S. - Samastipur Mufasil, District - Samastipur.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Health and Family welfare, Government of Bihar.
2. The District Magistrate cum Chairman, District Health Society, Samastipur.
3. The Civil Surgeon cum Member Secretary, District Health Society Samastipur.
4. The Block Development Officer, Tajpur, District - Samastipur.
5. The In Charge Medical officer, Tajpur Primary Health Center, District - Samastipur.
6. The Block Co-ordinator Manager BCM Primary Health Center Tajpur, District - Samastipur.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Ajay Kumar Thakur, Advocate
Mr. Nilesh Kumar, Advocate
Mr. Ritwaz Raman, Advocate
For the Respondent/s : Mr. Rajeshwar Singh (GA-10)
Mr. Manoj Kumar Yadav, AC to GA-10



CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR

ORAL JUDGMENT

Date : 10-05-2019

1. Heard the learned counsel for the petitioners and the State.

2. The petitioners have challenged the order dated 24.01.2019 whereby the appointment of the petitioners as Asha Facilitators have been set aside as it was found that they were appointed *de hors* the Rules. A further challenge has been made to the order/communication dated 29.01.2019 issued under the signature of Civil Surgeon-cum-Secretary of Bihar Health Society, Samastipur addressed to Incharge Medical Officer, Primary Health Centre, Tajpur, asking him not to take work as Asha Facilitators from the petitioners.

3. On the termination of the services the petitioners as Asha Facilitators, they had approached this Court earlier vide C.W.J.C. No. 16183 of 2017. A challenge was raised that they were not noticed before the order of termination was served upon them.

4. The stand of the State/Health Society was that the entire selection process was concluded in one transaction



whereas the Rules spoke of such appointments to be made in two transactions.

5. Without going into the details of the Rules, it is stated here that Asha Workers under the new scheme, were to be grouped in 21 in numbers, who, later, were entitled to chose one amongst them in each group to be an Asha Facilitator. The primacy had to be given to a person having highest qualification and in case of two persons having same qualification, such selection was to be done by voting. The procedure, therefore, presupposes that in the first instance, a group of 21 Asha Workers will be formed and in the second transaction, each group shall select an Asha Facilitator.

6. In the present case, it was alleged by the petitioners that they were validly appointed Asha Facilitators and such appointment ought not to have been terminated on the false / specious plea of Rules not having been followed.

7. In any view of the matter, a Bench of this Court vide order dated 18.08.2018 passed in C.W.J.C. No. 16183 of 2017, which has been referred to above, directed the District



Magistrate, who is the overall Incharge of the District Health Society to hear the petitioners and then pass an order.

8. Mr. Ajay Kumar Thakur, learned Advocate for the petitioners has challenged the order and its communication contained in Annexure-12, dated 24.01.2019 and 29.01.2019 respectively on the ground that despite the categorical direction of this Court to notice the petitioners and thereafter take a decision after hearing, no notice was issued to the petitioners by the District Magistrate.

9. The aforesaid ground of challenge in the opinion of this Court is absolutely non-existent as the petitioners appeared before the District Magistrate and ventilated their grievances. The purpose of notice is to make the persons aware that on a particular date and at a venue, a meeting shall be held or that on such occasion, any defence or challenge by the concerned person can be put up.

10. Such technical objection as of the District Magistrate not of his own issuing notice to the petitioners, therefore, is of no significance in view of the fact that the petitioners were heard. After hearing the petitioners and



others, the impugned was passed taking into account that their appointment as Asha Facilitators was not in accordance with the Rules and the order of termination, therefore, was again reiterated by the District Magistrate. Now, a fresh process of appointment of Asha Facilitators has been directed to be initiated.

11. In the opinion of this Court, the petitioners are not aggrieved at all as they even now continue to work as Asha workers. They shall now be formed in group of 21 and each group would thereafter select one person from amongst the group, in accordance with Rules, to be the Facilitator. The option for the petitioners to participate in such selection process is still open.

12. This Court, therefore, is not inclined to interfere with the orders impugned in the present writ petition on the mere ground that the petitioners appeared before the District Magistrate at their own and no notice was issued by the District Magistrate.



13. It is again stated that the purpose of notice stood served when the petitioners were heard in person by the District Magistrate and the Members of the Committee.

14. There is no merit in this petition. The petition is dismissed.

(Ashutosh Kumar, J)

skm/-

AFR/NAFR	N.A.F.R.
CAV DATE	
Uploading Date	11.05.2019
Transmission Date	

