

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13274 of 2014

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Mili Kumari wife of Shri Shailendra Kumar resident of Mohalla Bag Dulhan,
P.O. Hajipur, Police Station Hajipur, District Vaishali.

... .. Petitioner

Versus

1. The State Of Bihar through District Magistrate, Vaishali.
2. The District Magistrate, Vaishali.

... .. Respondents

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Appearance :

For the Petitioner/s : Mr.Sanjeev Ranjan
For the Respondent/s : Ms. Shilpa Singh, GA 12
Mr. Ranjan Kumar, AC to GA 12

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CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

2 09-07-2019 Petitioner was working as Lady Supervisor in Bidupur, Vaishali, discharging supervisor's duty under Integrated Child Development Programme on contractual basis. The initial contractual engagement of the petitioner was extended from time to time. The last extension (Annexure 3) is for a further limited duration which has lapsed long back. On account of certain allegations, leading to institution of Bidupur PS Case No. 48 of 2014, the petitioner was arrested. The department on its part issued a show cause notice to the petitioner that they did not consider her worthy of continuance as a contractual employee in light of her implication in criminal case. Show cause notice was issued to the petitioner on her permanent address as well as to the Khudi Ram Bose Jail where



she had been incarcerated.

Counsel for the petitioner submits that on account of petitioner's incarceration, she was not served with the notice and was not afforded any opportunity to appear before the District Magistrate, Vaishali. The order dated 18.6.2014, which is stigmatic in nature and has resulted in cancellation of her contractual engagement, is thus in violation of principles of natural justice.

Petitioner is not holding a civil post. Her existence is contractual, and at best giving rise to civil remedies and right on account of contract. The order dated 18.6.2014 nonetheless has to withstand the test of compliance with the rules of natural justice in so far as the stigma is concerned.

The circumstances taken note of hereinabove does not give rise to a situation where the petitioner can be directed to be reinstated in her contractual existence having regard to nature of her engagement with the State and in view of the fact that the last extension (Annexure 3) has long outlived its validity. However, the order dated 18.6.2014, which has been passed without affording the petitioner an opportunity of hearing, cannot be allowed to continue. Counsel for the State, on the basis of averments made in the counter affidavit, is not in a



position to show that there was actual service of notice issued from the office of District Magistrate. For non compliance with the principles of natural justice this Court would observe that no stigma should be attached to the petitioner on the basis of order dated 18.6.2014 issued by the District Magistrate, Vaishali. Petitioner's claim for contractual engagement in future cannot be denied on account of the said order.

The writ petition stands disposed of.

(Madhuresh Prasad, J)

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