

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13908 of 2014

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Sunaina Devi wife of Kesho Mochi residence of village Bahadurpur P.S.-
Bakhtiyarpur, District- Patna

... .. Petitioner

Versus

1. The State Of Bihar through the Principal Secretary, Human Resources Department, Government of Bihar
2. The Director, I.C.D.S., Social Welfare Department, Government of Bihar, Patna
3. The Assistant Director, I.C.D.S. of Social Welfare Department of Government of Bihar, Patna
4. The Deputy Director Patna
5. The District Program Officer Bakhtiyarpur, Patna
6. The Child Development Project Officer, Patna

... .. Respondents

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Appearance :

For the Petitioner/s : Mr. Prithvi Nath Mishra
For the Respondent/s : Mr. Shashi Shekhar Kumar Pd. AC to AAG 2

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CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

4 08-04-2019 Heard learned Counsel for the petitioner and the
learned Counsel for the respondent State.

The petitioner was Sahaika. The center in question was inspected and a report was submitted recommending action against the Sevika for certain irregularities at the center. The recommendation was made by the Director, ICDS on 13.6.2012. The order of removal was challenged before the Appellate Authority, wherein she took specific plea that since no notice was served on her, she could not file any response before the District Programme Officer and in her absence without any



notice being served the impugned order cancelling her selection has been passed by the District Programme Officer, Patna on 7.7.2012.

The specific plea of the petitioner that no notice was served, has not been considered or examined by the Appellate Authority. Merely by recording that by a memo number on 20.6.2012 the notice has been issued, the Appellate Authority has proceeded on the presumption of actual service. The Appellate Authority has not even taken into consideration or recorded the details of the communication with reference to its date as regards issuance/service of notice to the petitioner prior to the order dated 2.6.2012 whereby the petitioner has been removed by the District Programme Officer.

It is trite law that before a person can be visited with an order having civil/penal consequence, at least he is entitled to be heard. The order of the District Programme Officer is without even issuing show cause apart from being violative of the guidelines as also in violation of natural justice and cannot be sustained.

It is further submitted by petitioner's Counsel that Sevika, against whom action had been recommended by the inspecting team has been reinstated as Sevika for the center in



question.

It is submitted by petitioner's Counsel that till date nobody has been selected as Sahaika for the center in question.

In the circumstances, having considered the facts as taken note of hereinabove, this Court would set aside the order dated 29.6.2012 issued under Memo No. 180 dated 7.7.2012 passed by DPO Patna as well as the order of the Appellate Authority dated 19.7.2012 whereby removal of the petitioner has been affirmed by the Appellate Authority.

As a result of quashing of the impugned orders, it is needless to say that if none has been selected/appointed in place of the petitioner, in the meantime, she is entitled to be reinstated with immediate effect.

The writ application is allowed.

(Madhuresh Prasad, J)

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