

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6626 of 2019

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Bibha Kumari, wife of Sri Manish Kumar, resident of Village-Tilak Tajpur,
Ward No.-12, P.S.-Runni Saidpur, District-Sitamarhi.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Social Welfare Department, Govt. of Bihar, Patna.
2. The Principal Secretary, Social Welfare Department, Govt. of Bihar, Patna.
3. The Director, Integrated Child Development Services, Govt. of Bihar, Patna.
4. The District Collector, Sitamarhi.
5. The District Programme Officer, Sitamarhi.
6. The Child Development Programme Officer, Runni Saidpur, Sitamarhi.
7. The District Welfare Officer, Sitamarhi.
8. The Secretary, Selection Committee, Runni Saidpur, Sitamarhi.
9. The Supervisor, Runni Saidpur, District-Sitamarhi.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Aditya Narayan Singh.1, Advocate
For the Respondent/s	:	Mr. Md.Raisul Haque (SC-10)

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CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
ORAL JUDGMENT

Date : 24-04-2019

Pursuant to an advertisement for selection of *Anganbari Sevika* in the year 2016 under Talak Tajpur Panchayat in Runi Saidpur in the District of Sitamarhi, the petitioner along with others had applied. One Munni Kumari was appointed on the post of *Anganbari Sevika* at the concerned centre.

2. The aforesaid appointment was challenged by the petitioner before the District Programme Officer,



Sitamarhi vide Anganbari Case No. 45 of 2017. The contention raised on behalf of the petitioner seeking setting aside of the appointment of the aforesaid Munni Kumari was accepted and her appointment was terminated. A direction was given by order dated 22.05.2018 to the Child Development Programme Officer, Runni Saidpur, Sitamarhi (respondent No. 6) to appoint the person with the highest marks in the merit list.

3. Pursuant to the aforesaid order, the petitioner was appointed on the post of *Anganbari Sevika* because she was the applicant with the highest marks in the matriculation.

4. Later, a recommendation was made by the Child Development Programme Officer, Runni Saidpur, Sitamarhi (respondent No. 6) to the District Programme Officer, Sitamarhi (respondent No. 5) for cancelling the appointment of the petitioner as in a different case/appeal decided by the District Magistrate, Sitamarhi (respondent No. 4), it was held that any degree of Board of Secondary Education, Madhya Bharat, Gwalior, was not to be accepted



as the requisite qualification.

5. In the aforesaid appeal about which reference has been made by the Child Development Programme Officer, Runni Saidpur, Sitamarhi (respondent No. 6), while recommending termination of appointment of the petitioner, the petitioner was not a party. What were the facts of that case have also not been stated in such recommendation.

6. Pursuant to the aforesaid recommendation, vide order dated 21.08.2018, the District Programme Officer, Sitamarhi (respondent No. 5) set aside the appointment of the petitioner and directed the Child Development Programme Officer, Runni Saidpur, Sitamarhi (respondent No. 6) to appoint any other suitable person on the post of *Anganbari Sevika* in place of the petitioner.

7. The aforesaid recommendation by the Child Development Programme Officer, Runni Saidpur, Sitamarhi (respondent No. 6) and the subsequent order of the District Programme Officer, Sitamarhi (respondent No. 5) has been challenged on several grounds, but primarily on the ground of the petitioner not being heard and an order being passed



on the recommendation of the Child Development Programme Officer, Runni Saidpur, Sitamarhi (respondent No. 6) when the petitioner's certificates were found to be genuine and she was appointed on the post only with the intervention of the District Programme Officer, Sitamarhi (respondent No. 5) in an earlier litigation.

8. The order dated 21.08.2018 passed by the District Programme Officer, Sitamarhi (respondent No. 5) is not sustained in the eyes of law. Before passing any order, the District Programme Officer ought to have issued notice and provided opportunity of hearing to the petitioner. The other reason why the order of the District Programme Officer cannot be sustained is that a decision which has been taken in a specific case in which the petitioner was not a party, cannot be applied to the facts of the case of the petitioner. If at all, the certificate held forth by the petitioner for her appointment on the post of *Anganbari Sevika* is not from a recognized Institution, the petitioner ought to have been given a chance to defend her appointment.

9. For the aforesaid reason, the order dated



21.08.2018 passed by the District Programme Officer, Sitamarhi (respondent No. 5) is not sustainable in the eyes of law.

10. However, since a forum of appeal is available to the petitioner, this Court, without passing any order on the recommendation of the Child Development Programme Officer, Runni Saidpur, Sitamarhi (respondent No. 6) and subsequent order passed by the District Programme Officer, Sitamarhi (respondent No. 5) directs the petitioner to prefer an appeal before the District Magistrate, Sitamarhi (respondent No. 4) within a period of four weeks, who, on receipt of such appeal shall, after hearing the parties, pass an order in accordance with law, within a period of four weeks thereafter, taking into account that the petitioner ought to have been heard before terminating her appointment.

11. Till the time the appeal is heard and disposed off, the petitioner shall be allowed to function as *Anganbari Sevika*, if no other arrangement has already been made up till now.



12. With the aforesaid observation/direction, the writ petition stands disposed off.

(Ashutosh Kumar, J)

Shageer/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	27/04/2019

