

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16256 of 2015

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Mamta Devi w/o Jai Narayan Mishra r/o village Koirgawan, P.S. Shikarpur,
District- West Champaran

... .. Petitioner

Versus

1. The State Of Bihar through District Magistrate, Bettiah West Champaran
2. The C.D.P.O. Narkatiyaganj, Dist W. Champaran
3. The District Programme Officer Bettiah W. Champaran
4. The Commissioner Trihuta Commissionerary at Muzaffarpur

... .. Respondents

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Appearance :

For the Petitioner/s	:	Mr.Dhannjay Kumar No 2
For the Respondent/s	:	Mr.Sc12-P.K.Singh
		Mr. Rishi Raj Sinha, SC 19
		Mr. Saurabh Kumar, AC to SC 19

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CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

3 16-10-2019 Heard learned Counsel for the petitioner and the
respondent State.

The petitioner is aggrieved by rejection of his appeal by order dated 23.7.2015 passed in Appeal No. 22 of 2013 whereby the Commissioner, Tirhut Division, Muzaffarpur has rejected petitioner's appeal against the order passed by District Programme Officer, West Champaran in Misc. Case No. 38 of 2013, whereby and whereunder petitioner's selection as *Anganwari Sevika* for the center in question was cancelled. The order of the District Programme Officer dated 24.5.2013, cancelling the petitioner's selection, has not been challenged in the instant proceeding.

Counsel for the petitioner submits that the petitioner on account of suffering with excessive bleeding was admitted in the



local clinic between 18.10.2012 to 21.10.2012, as a result the center in question was found closed in the inspection conducted on 19.10.2012. Having regard to the medical condition, petitioner's counsel submits that the same should be considered as a mitigating circumstances and the extreme penalty of cancelling her selection should not have been upheld by the appellate authority under order dated 23.7.2015.

Reliance is also placed on a decision of this Court in the case of *Manjula Kumari & anr Vs. State of Bihar & ors* reported in *2013(1) PLJR 901*. Referring to the same it is submitted that copy of the inspection report dated 19.10.2012 was not furnished to the petitioner and therefore the order cancelling petitioner's selection should not have been upheld by the appellate authority.

Since the petitioner has placed reliance on the said judgment this Court would also consider the facts in the case of *Manjula Kumari (supra)* wherein this court had interfered with the order issued by the District Programme Officer on account of the same being at the dictates of the Director ICDS. The facts are essentially missing in the instant case. There is no reference to any such direction issued by the Director ICDS requiring the District Programme Officer to cancel petitioner's selection.

As regards the other aspect regarding non service of copy of the inspection report, this Court would observe that the petitioner has admitted to absence from the centre between 18.10.2012 to



21.10.2012. Non service of the inspection report therefore does not cause any prejudice to the petitioner. Whether the explanation offered for the absence was acceptable or not is the issue which remains for consideration.

Admittedly no intimation was served on the authorities regarding absence between 18.10.2012 to 21.10.2012 either prior, or during period of petitioner's absence. The bonafides of the petitioner therefore are clearly lacking. The authority has rightly rejected petitioner's defence as being suffering with medical condition. If the same was correct, petitioner would have sent intimation so as to ensure that dissemination of the social welfare measure at the center in question do not remain disrupted between 18.10.2012 to 21.10.2012. That is not the case here.

The order of the appellate authority requires no interference in view of the aforesaid observations.

Even otherwise, since order of the District Programme Officer canceling petitioner's selection has not been challenged in the instant proceeding the prayer made in the writ petition is merely academic in nature as even if the order of the appellate authority is set aside no relief would flow to the petitioner.

The writ petition is dismissed.

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(Madhuresh Prasad, J)

