

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.22609 of 2013

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Yamanti Devi Wife of Shiv Manjhi, resident of village - Khadiha, P.O.-
Nisarpur, P.S.- Parsa Bazar, District – Patna.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. The Commissioner / Secretary, Social Welfare Department, Bihar, Patna
3. The Commissioner, Patna Division, Patna
4. The District Magistrate, Patna
5. The District programme Officer, Patna
6. The Child Development Projector Officer, Phulwarisharif Block, Patna
7. Shushma Kumari, Lady Supervisor-cum-Enquiry Officer-cum-C.D.P.O.,
Punpun.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Amar Nath Yadav
For the Respondent/s : Mr. Sita Ram Yadav

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY
ORAL JUDGMENT

Date : 03-04-2019

In this case, the petitioner is challenging the order of District Magistrate, Patna dated 26.04.2013 by which his Appeal No. 175/2012 has been rejected, having recorded that as per the statement of District Programme Officer as well as Child Development Project Officer, on 03.09.2011 there was a Pulse Polio Drive, but there was no Pulse Polio Drive on 22.02.2012 and on that day, the petitioner was found absent at the Anganwari Centre Code No. 75.

2. The petitioner was engaged as Anganwari Sevika in Khatia Mushari Centre, Code No. 75, Phulwarisharif Block.



3. A surprise inspection of the aforesaid Center was made on 03.09.2011 and 22.02.2012. The Inspecting Team found the Centre closed on both the dates and there was no distribution to T.H.R. The Inspecting Team has recorded that on both the dates, there was no supply of T.H.R. and no material was available at the Centre. After that, a proceeding was initiated against the petitioner by the District Programme Officer against number of persons including the petitioner, having recorded that the Centre was found closed on 03.09.2011 and 22.02.2012 and on that dates, the T.H.R. was not available at the Centre. Against that, an appeal was filed before the District Magistrate, Patna who vide order dated 26.04.2013 rejected the appeal *inter alia* it recorded that the District Programme Officer and Child Development Project Officer have admitted drive of Pulse Polio on 03.09.2011, but there was no Pulse Polio Drive on 22.02.2012.

4. The learned counsel for the petitioner has drawn attention of this Court to the duty chart (Annexure-3) dated 19.02.2012 showing the name of the petitioner, Yamanti Devi, Anganwari Sevika Centre Code No.75, she remained engaged in the Pulse Polio Drive on 19.02.2012, 20.02.2012, 21.02.2012, 22.02.2012 and 23.02.2012 and the State has not challenged the genuineness of the document, in that circumstance, the finding



recorded by the District Magistrate about having no Pulse Polio Drive on 22.02.2012 is misdirected and it is completely a perverse finding. The State has not denied the existence and correctness of the duty chart i.e. Annexure-3 relating to the petitioner but submitted that as per the counter affidavit she was not present on the day of inspection.

5. Having considered the rival contentions of the parties, the District Magistrate while hearing the appeal, has recorded that the District Programme Officer and Child Development Project Officer have accepted admittedly that the petitioner was engaged in Pulse Polio Drive on 03.09.2011, but denied that there was no Pulse Polio Drive on 22.02.2012, but the duty chart (Annexure-3) shows that the petitioner remain engaged in Pulse Polio Drive from 19.02.2012 to 23.02.2012, in such circumstance, the Government servant who has been asked to remain attached with the Pulse Polio Drive which she cannot ignore, cannot be accepted that the petitioner would remain present and would work in the Pulse Polio Drive and simultaneously ought to have kept the Centre open on the aforesaid date during the period of Pulse Polio Drive.

6. In such view of the matter, this Court is of the view that the decision taken by the authority to terminate the



engagement of petitioner from Anganwari Sevika is completely illegal and not sustainable in law as on the day of inspection, the petitioner was busy in the work of Pulse Polio Drive, hence the order passed by the District Programme Officer as well as Collector are set aside and this application is accordingly allowed and the petitioner be reinstated in her place.

(Shivaji Pandey, J)

mkchy/-

AFR/NAFR	NAFR
CAV DATE	N/A
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