

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16870 of 2011

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Renu Debi Wife Of Sunil Kumar Sah Resident Of Village Kodwar, P.S.
Ghogha Kahalgaon, District- Bhagalpur

... .. Petitioner/s

Versus

1. THE STATE OF BIHAR and ORS
2. The Divisional Commissioner, Bhagalpur
3. The Director, Welfare Department, Govt. Of Bihar, Patna
4. The District Magistrate, Bhagalpur
5. The District Programme Officer, Bhagalpur
6. The Child Development Project Officer, Kahalgaon, District- Bhagalpur

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Anupa Nand Jha
For the Respondent/s : Mr.Sushant Praveen, AC to SC 9

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CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

3 16-09-2019 Heard counsel for the petitioner and counsel for the
respondents-State.

Writ petition has been filed for quashing of the order dated 26.04.2011 passed by the Divisional Commissioner, Bhagalpur on the appeal preferred by the petitioner against the order dated 09.12.2010 passed by the Collector, Bhagalpur whereby cancellation of petitioner's selection as Anganbari sevika for center no.08 at Shankarpur Kodwarpur block Khalgaon has been upheld.

Submission advanced by counsel for the petitioner is that the petitioner was ill on 21.08.2010 when the center was



inspected by the State level committee. On petitioner being absent show cause was issued and extreme punishment of cancellation of her selection has been awarded in the matter.

It is submitted that mitigating factor of her illness, which led to her absence of one day i.e. 21.08.2010 has been dealt with by severe punishment which is excessive and disproportionate. In this connection, petitioner had raised specific plea before the authorities including the Commissioner, Bhagalpur (appellate authority). The claim has been rejected without showing any consideration of the said plea by the Commissioner, Bhagalpur (appellate authority).

Counsel for the petitioner relies upon the decision of this court in the case of Sabita Kumari vs. State of Bihar and others passed in CWJC no. 308/2015 wherein punishment awarded in the same manner is to be harsh and arbitrary.

Whether plea of illness of the petitioner was mitigating factor would be considered for the purpose of containing one day's absence and whether claim of the petitioner would stand covered by the decision of Sabita Kumari(supra) is an issue which should be considered by the appellate authority.

The order passed by the Divisional Commissioner, Bhagalpur in Misc. Revision Case no. 44/2010-11 is therefore,



quashed. Matter is remitted to the Divisional Commissioner, Bhagalpur to examine this aspect of the matter after notice to the parties concerned. In order to facilitate such consideration, petitioner would approach the Divisional Commissioner, Bhagalpur with a copy of this order and her representation based on judgment of Sabita Kumari (supra) within a period of four weeks.

Writ petition stands disposed of.

(Madhuresh Prasad, J)

s.hassan/-

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