

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.24325 of 2013

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Lalmuni Devi Wife of Lalan Ram Resident Of Village Mahavar, P.S.
Daudnagar, District Aurangabad

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Welfare Department,
Govt. of Bihar, Patna.
2. The Director, I.C.D.S. Govt. of Bihar, Patna
3. The Deputy Director, Welfare Magadh Division, Gaya
4. The District Magistrate, Aurangabad
5. The District Programme Officer, District Aurangabad
6. The Child Development Project Officer, Daudnagar Block, District
Aurangabad

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Sunil Kumar Dubey, Adv.
For the Respondent/s : Mr. Ramashray Roy, AC to AAG-11

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY
ORAL JUDGMENT

Date : 05-04-2019

Heard learned counsel for the parties.

In this case, the petitioner is challenging the order dated 10.01.2012 passed by the District Programme Officer, Aurangabad in Case No. 83 of 2011 as well as the order passed by the appellate authority dated 15.10.2013 in Anganbari Sahaika Appeal Case No. 27DM, Abad/2012, whereby and whereunder, the appellate authority has affirmed the order passed by the District Programme Officer, Aurangabad.

The petitioner was engaged as Anganwari Sahaika of Anganwari Centre, Purnabigha bearing Code No. 91 under the



Daudnagar Block in the district of Aurangabad in the year 1990 and she started discharging the function and duty of Anganwari Sahaika. On 10.9.2011, a surprise inspection was made by the Assistant Director, I.C.D.S., Patna, the center was found closed led to initiation of a proceeding by the District Programme Officer, Aurangabad, who issued show-cause to the Anganwari Sevika and Sahaika. Both the Anganbari Sevika and Sahaika (petitioner) appeared before the District Programme Officer, Aurangabad and place their defences. The Anganbari Sevika has taken a plea from 11 AM to 4 PM she had gone to Primary Health Centre for participating in the training for Pulse Polio whereas the Sahaika (petitioner) had taken a plea that she had remained present at the center on the day of inspection from 9 AM to 1 PM. The explanation submitted by the Anganwari Sevika was accepted. It has been said that the Anganwari Sevika was in the Pulse Polio drive will be treated to be on duty constructively but, the explanation submitted by the petitioner was found not acceptable as during inspection at 11.40 AM, Sevika and Sahaika were not present which has been supported by the villagers and, on that basis, the explanation submitted by the petitioner has been rejected and, accordingly, terminated the petitioner from the post of Anganwari Sahaika. In appeal also, the Deputy Director, Welfare,



Magadh Division, Gaya, has not accepted the plea of the petitioner and rejected the appeal filed by her.

Learned counsel for the petitioner submits that it was one day closure of the center, cannot entail the termination of the petitioner from the post of Anganwari Sahaika, placed reliance on the judgment in the case of Ranju Kumari vs. The State of Bihar and ors. reported in 2017(2) PLJR 405 wherein the Lordships of Single Bench of this Court has considered the matter, held that closure of one day of the center will not invite cancellation of appointment of Anganwari Sevika or Sahaika but, herein, in the finding portion, it has been recorded the center remained closed for five days, how this finding has been arrived at by the District Programme Officer is not apparent nor it is corroborated from any statement of villagers recorded during inspection or any supporting material. Such finding without basis is not sustainable in law, as finding must be based on some corroborative material otherwise it is perverse finding, requires interference.

In that view of the matter, this Court is of the view that this part of the order of the District Programme Officer, Aurangabad, that the center was closed for five consecutive days cannot be upheld and that portion is quashed and it will be treated to be closure of one day and, in view of the judgment aforesaid,



mere closure of one day will not invite cancellation of the engagement of Anganwari Sevika/Sahaika.

Accordingly, the order passed by the appellate authority dated 15.10.2013 in Anganbari Sahaika Appeal Case No. 27DM, Abad/2012 is set aside and, in consequence, the order of the District Programme Officer, Aurangabad dated 10.1.2012 is also set aside.

In the result, the present writ application stands allowed to the extent indicated above.

(Shivaji Pandey, J)

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AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	22.04.2019
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