

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.19411 of 2015

=====

Meena Devi wife of Raj Kumar Yadav resident of At - Mayurwa, P.S. -
Triveniganj, Block - Triveniganj, District - Supaul.

... .. Petitioner

Versus

1. The State Of Bihar
2. The Principal Secretary, Social Welfare Department, Government of Bihar,
Patna.
3. The Director, Integrated Child Development Schemes, Government of Bihar,
Patna.
4. The Deputy Director, Welfare Department, Kosi Division, Saharsa.
5. The District Programme Officer, Supaul.
6. The Child Development Project Officer, Triveniganj, District - Supaul.
7. Kiran Devi wife of Ravi Yadav resident of village - Mayurwa, P.O. -
Kushaha, P.S. - Triveniganj, District - Supaul.

... .. Respondents

=====

Appearance :

For the Petitioner/s	:	Mr. Alok Kumar & Mr. Pranav Kumar
For the State	:	Mr. Niraj Kumar AC to GA 10
For Respondent No. 7	:	Dr. Kamal Deo Sharma

=====

CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL JUDGMENT

Date : 16-04-2019

Heard learned Counsel for the petitioner, respondent
State as well as respondent No. 7.

On 25.6.2012 Center No. 167 at Triveniganj in the
district of Supaul was inspected by the Lady Supervisor. The
petitioner, who was the Sevika at the Anganwari Center, was found
to be absent. The Attendance Register was examined and it was
found that none of the beneficiaries were available at the center.
Inspection was conducted at 11.40 AM. The petitioner has been



issued a show cause on account of her absence on 25.6.2012 when the center was inspected. She has given her reasons justifying her absence on account of some function in the village. The authorities have considered the show cause and awarded the petitioner punishment of cancellation of her selection as Anganwari Sevika for the center in question.

Limited submission made by Counsel for the petitioner is that the punishment itself is grossly disproportionate to the misconduct alleged by the authorities. Relying upon decision in the case of *Savita Kumari* in the writ proceedings arising out of **CWJC No. 308 of 2015**, it is submitted that the extreme penalty of removal or cancellation of selection for a single day absence is harsh and an arbitrary decision. The said decision is relied upon by the petitioner and the punishments are assailed on account of the same being arbitrary and harsh. The issue regarding quantum of punishment has not been considered by the authorities. Neither the District Programme Officer in the order dated 31.8.2012, nor the appellate authority i.e Deputy Development Commissioner, Koshi Division, Saharsa in his order dated 6.1.2015 has considered the issue regarding quantum of punishment, having regard to the explanation offered by the petitioner for her absence.



This Court is therefore of the opinion that in the circumstance award of extreme punishment or cancellation of petitioner's selection is unsustainable.

Counsel for respondent No. 7 submits that respondent No. 7 was selected as Anganwari Sevika for the center in question after petitioner's removal. Respondent No. 7 has been working since 14.3.2015 and therefore this Court should not give direction which has the effect of removing respondent No. 7.

The selection letter of respondent No. 7 dated 14.3.2015 is Annexure 'A' to the counter affidavit filed by respondent No. 7. The selection of respondent No. 7 contains explicit condition that the same is subject to the result of the proceeding pending in the Court regarding removal of the petitioner. Respondent No. 7 at best had a contingent right which was subject to result of the pending challenge of the petitioner against her cancellation of selection. Respondent No. 7 therefore is not in a position to claim a vested right.

The petitioner, on the other hand, in view of cancellation of her selection being contrary to the law as per decision of this Court in CWJC No. 308 of 2015, would be entitled to remedies as recognition of the wrong committed by the authorities. This Court would also observe that removal of respondent No. 7 does not



attach any stigma on respondent No. 7 and is not on the basis of any allegation.

Having considered the issue as aforesaid, this Court would quash order dated 31.8.2012 issued by the District Programme Officer as well as the order dated 6.1.2015 issued by Deputy Director Welfare. The petitioner should be reinstated and the authorities may consider grant of punishment having regard to the legal position taken note of hereinabove.

The writ petition is allowed.

(Madhuresh Prasad, J)

SNkumar/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	17.04.2019
Transmission Date	N/A

