

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8965 of 2015

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Kumari Jyoti wife of Manoj Paswan, Resident of Village + P. O.- Budhwara,
P. S.- Govindpur, District – Nawadah.

... .. Petitioner

Versus

The State Of Bihar and Ors.

... .. Respondents

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Appearance :

For the Petitioner/s : Mr. Krishna Deo Raj, Advocate
For the State : Mr. Shankar Kumar Thakur, AC to GP-27

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CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

2 11-09-2019 Learned counsel for the petitioner submits that without impleading the petitioner as a party, the Deputy Director, Welfare, Magadh Division, Gaya has allowed the appeal, filed by the Private Respondent No. 11 and reinstated her as Anganwari Sevika in place of petitioner by canceling the petitioner's selection.

The brief facts leading to filing of the writ petition is that the Private Respondent No. 11 was the Anganwari Sevika for the center, in question, pursuant to inspection done by the State Level Committee. She had been removed on the ground of alleged irregularity in functioning of the center. After removal of Private Respondent No. 11, the petitioner came to be selected on the vacancy created by removal of Private Respondent No. 11.

The Private Respondent No. 11 had been pursuing her



remedies against her removal before the authorities under the guidelines. The claim of Private Respondent No. 11 was finally allowed and her removal was held to be bad in law by order passed by the Deputy Director, Magadh Division, Gaya on 18.11.2014. Counsel for the petitioner submits that petitioner was a necessary party before the Deputy Director, Welfare. However, order has been passed without impleading the petitioner.

This court would refer to the decision of Apex Court in the case of Poonam Kumari v/s The State of Uttar Pradesh (2016) 2 SCC 779. The Apex Court in the said judgment observed that the petitioner had no independent right. It was also on account of vacancy created by removal of the Private Respondent No. 11 that petitioner was appointed. Once the removal of Private Respondent No. 11 was found to be bad, the consequential benefits of such declaration by the Authority under the guidelines was to be granted in favour of Private Respondent No. 11. The petitioner has not been removed by alleging any irregularity in her functioning or on the basis of any charges whatsoever. The order is not penal or stigmatic. The petitioner in the circumstances would have to make way for Private Respondent No. 11 in view of the law declared by the



Apex Court having given hereinabove.

No case for interference with order passed by the
Appellate Authority is made out in the instant proceedings.

The writ petition is stands dismissed.

(Madhuresh Prasad, J)

Rajeev Kumar/-

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