

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.8593 of 2014

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1. Kamni Kaushal Wife of Deepak Kumar resident of Village Bitho Shrif, P.S-
Chandauti, District- Gaya Petitioner

Versus

1. The State of Bihar through the Principal Secretary Social Welfare department,
Government of Bihar, Patna.
2. The Director, Integrated Child development service (I.C.D.S) Directorate social
Welfare Department, Government of Bihar, Patna.
3. The deputy Director (welfare) Magadh Division, Gaya.
4. The Commissioner, Gaya.
5. The Collector, Gaya.
6. The District Programme Officer, Gaya.
7. The Child Development Programme Officer, Gaya Rural, Gaya
..... Respondents

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Appearance :

For the Petitioner : M/S Umesh Kumar Verma & Sunil Kumar Yadav, Advs.
For the Respondents : Mr. S. Raza Ahmad, AAG V with
Mr. Anisul Haque, AC to AAG V

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA

ORAL JUDGMENT

Date: 03-11-2017

Heard both sides.

2. The petitioner seeks quashing of the order, dated 18.11.2011/07.12.2011 (Annexure 1), passed by the District Magistrate, Gaya. The District Magistrate dismissed the appeal preferred against the order, dated 09.05.2011, passed by the District Programme Officer, Gaya, by which the service of the petitioner is cancelled from the post of Aganbari Sevika.

3. The petitioner was working as Aganbari Sevika at Center no. 8, Bitho Sharif, Chandauti, Gaya. The Minister, Social Welfare, Government of Bihar, inspected the Center of the petitioner on 15.02.2011 and found certain irregularities. The petitioner was asked



upon to show cause about the irregularities found in running Aganbari Center vide letter, as contained in Memo No. 157, dated 11.04.2011.

4. The petitioner gave her detailed reply on 25.04.2011 (Annexure 11). The District Programme Officer cancelled the appointment of the petitioner on the basis of the recommendation made by the Child Development Programme Officer, Gaya Rural, Gaya, vide order, dated 06.05.2011, as contained in Memo No. 663 (Annexure 2). The petitioner preferred appeal before the Collector, Gaya, being Appeal No. 19 of 2011 and the Collector also dismissed the appeal on 07.12.2011, as contained in Annexure 1.

5. The petitioner also preferred revision/appeal before the Commissioner, Magadh Range, Gaya, and the Deputy Director, Welfare, Magadh Division, Gaya, held that the appeal is not maintainable because the appeal of the petitioner preferred before the Collector has already been disposed off.

6. The learned counsel for the petitioner submits that from perusal of the notice, as contained in Memo No. 157, dated 11.04.2011, it would appear that the authority simply asked the petitioner to show cause, but, no specific irregularity was pointed out in the aforesaid letter. The letter simply says that on 15.02.2011 at 12.40 P.M., the Minister, Social Welfare, Government of Bihar, inspected the Aganbari Center, situated at Bitho Sharif, Koiri Tola, Gaya, along with District Programme



Officer, Gaya, and Child Development Programme Officer, Gaya Rural, Gaya, and found that Take Home Ration (THR) was not distributed among the beneficiaries, but, the petitioner gave her detailed reply that at the time of inspection of Angan Bari Center she had already distributed THR to fifty beneficiaries and only six beneficiaries remained to be given THR. The petitioner also disclosed that it is quite natural that some persons complained of non-supply of THR, but, they made complaint only because their names did not appear in the list of beneficiaries. It is submitted that neither the District Programme Officer nor the Collector, Gaya, perused the show cause of the petitioner and passed the order without assigning any reason. The orders of the District Programme Officer and the Collector, Gaya, do not reflect at all that they considered the show cause of the petitioner and, therefore, both the orders are palpably illegal.

7. Of course, the learned counsel for the State tried to persuade this Court that many irregularities were found at the time of inspection and the State has stated in the counter affidavit that THR is distributed after twelve noon and it continues till all the beneficiaries got Take Home Ration (THR) from Anganbari Center, but, when the learned counsel for the State was asked to show from the show cause notice, which does not state the irregularities found during the course of inspection, he could not be able to satisfy the Court. The show cause notice, itself, appears to be



vague although the petitioner gave her detailed reply that no irregularity was found, but, even then without assigning any cogent reason, the District Programme Officer, Gaya, and the Collector, Gaya, terminated the service of the petitioner from the post of Aganbari Sevika of Center no. 8, Bitho Sharif, Chandauti, Gaya, and both the orders do not reflect that the show cause filed by the petitioner was at all taken into consideration, therefore, both the orders in my view, is illegal and based on non-est ground.

8. Accordingly, the writ petition is **allowed**. The order, dated 18.11.2011/07.12.2011 (Annexure 1), passed by the District Magistrate, Gaya, and the order, dated 09.05.2011 (Annexure 2), passed by the District Programme Officer, Gaya, are **set aside**.

(Prabhat Kumar Jha, J)

SA/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	22.11.2017
Transmission Date	N/A

