

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14830 of 2012

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Pushpa Kumari W/O Anand Ram Resident Of Village- Dewara, Ward No. 9,
P.S.- Akbarpur, District- Nawada

... .. Petitioner/s

Versus

1. The State of Bihar through the Secretary, Department of Social Welfare,
Govt. Of Bihar, Patna
2. The Director, Department Of Child Development and Welfare Scheme,
Govt. Of Bihar, Patna
3. The District Magistrate, Nawada
4. The District Programme Officer, Nawada
5. The Child Development Project Officer, Nawada
6. The Block Development Officer, Akbarpur Block, Nawada
7. The Mukhia, Gram Panchayat ,Makhar, Akbarpur, District Nawada
8. Panchayat Secretary, Makhar Gram Panchayat, Akbarpur, District Nawada

... .. Respondent/s

with

Civil Writ Jurisdiction Case No. 4053 of 2014

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Poonam Devi Wife Of Sri Mukesh Ranjan Singh Resident Of Village -
Khajauri, P.S. Panapur, District - Saran

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Social Welfare
Department, Government of Bihar, Patna
2. The Director, Integrated Children Development Scheme, ICDS, Directorate,
Social Welfare Department, Government of Bihar, Patna
3. The Commissioner, Saran Division at Chapra
4. The District Magistrate, Saran at Chapra
5. The Deputy Director, Welfare, Saran Division, District - Saran at Chapra
6. The District Programme Officer, Integrated Child Development Scheme
ICDS , Saran At Chapra
7. The Child Development Project Officer, Panapur, District - Saran At Chapra

... .. Respondent/s

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Appearance :

(In Civil Writ Jurisdiction Case No. 14830 of 2012)

For the Petitioner : None

For the Respondents : Mr. Ashutosh Ranjan Pandey, AAG-15



Mr. Kumar Manish, SC-5
(In Civil Writ Jurisdiction Case No. 4053 of 2014)
For the Petitioner : Mr. Abhay Shankar Singh, Advocate
For the Respondents : Mr. Ashutosh Ranjan Pandey, AAG-15
Mr. Kumar Manish, SC-5

CORAM: HONOURABLE THE CHIEF JUSTICE

And

HONOURABLE JUSTICE SMT. ANJANA MISHRA

And

HONOURABLE MR. JUSTICE ASHUTOSH KUMAR

ORAL ORDER

(Per: HONOURABLE THE CHIEF JUSTICE)

7 07-03-2019 No one has turned up in this petition to assist us on behalf of the petitioner for answering the reference under the order dated 15th of April 2013.

In the connected case Sri Abhay Shankar Singh, learned counsel has appeared for the petitioner, on behalf of the respondents Sri Ashutosh Ranjan Pandey, learned AAG-15, and Sri Kumar Manish have put in appearance.

In this case, while doubting the correctness of the decision in C.W.J.C. No. 3981 of 2008, a reference was made by a learned Single Judge vide order dated 5th of February, 2013. The Division Bench, before which the matter was referred, under the order dated 15th of April 2013 came to the



conclusion that after the questions had already been framed by the learned Single Judge in the order dated 5th of February 2013, no affidavit had been filed on behalf of the State. The Division Bench further went on to describe the act of the State as perfunctory on the counter affidavit that was filed by the State and it desired the disclosure of certain aspects with regard to the claim of *Aanganwari Sahayikas* being appointed at various centres.

It appears that in this factual backdrop having not found effective assistance from the State, the Bench considered the matter to be appropriately decided by a Larger Bench.

We, having considered the aforesaid order, find that the matter was under reference before the Division Bench itself. If there was a deficit on the part of the State in providing adequate information, it was open to the Division Bench to draw its own inference and form an opinion on the basis of the



pleadings available before proceeding to refer the matter to the Larger Bench. It appears that without there being any definite opinion in respect of the issue raised even the order of a coordinate Bench in LPA No. 1439 of 2010, which was dismissed as infructuous does not give rise to any question of law that would require a reference to a Larger Bench. The impact of the said judgment as well as the inference drawn on the basis of pleadings could have been treated either sufficient or otherwise for the purpose of forming an opinion and it is thereafter, if any authoritative pronouncement was required keeping in view the provisions of Chapter-V, Rule-1 of the Patna High Court Rules, then in that event the matter should have been referred to be resolved by a Larger Bench.

We are unable to gather the point of reference from a perusal of the order dated 15th of April 2013 inasmuch as it would not be necessary to



delve into the original petition itself. Inasmuch as the same can be decided by the appropriate Division Bench.

We, therefore, return the reference unanswered at this stage, more so on account of the fact that the law has been sufficiently altered and that might have an impact on the issue already raised in the petition.

The status of the law having altered has been brought on record through the affidavit on behalf of the State filed today. The same is taken on record.

Since no one has turned up on behalf of the petitioner in C.W.J.C. No. 14830 of 2012, the same is dismissed for want of prosecution.

However, the connected matter, being C.W.J.C. No. 4053 of 2014 (Poonam Devi vs. the State of Bihar & Ors.), stands remitted to the appropriate Bench for decision in accordance with



law.

This order will be placed before the appropriate Bench of the learned Single Judge for deciding the writ petition.

(Amreshwar Pratap Sahi, CJ)

(Anjana Mishra, J)

(Ashutosh Kumar, J)

Krishna/-
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