

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.12496 of 2013

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Sunita Kumari, Wife of Anil Ram, Resident of Village- Hahawa, P.S.-
Maharajganj, District- Siwan

... .. Petitioner/s

Versus

1. The State of Bihar
2. The Principal Secretary, Human Resources Development Department,
Government of Bihar, Patna
3. The Director, I.C.D.S., Government of Bihar, Patna
4. The Divisional Commissioner, Chapra, District- Chapra
5. The District Magistrate, Siwan
6. The District Programme Officer, Siwan, District- Siwan
7. The Child Development Programme Officer, Maharajganj Block, District-
Siwan

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Sanjay Kumar Singh, Adv.
For the Respondent/s : Mr. Kumar Kamal Nayan, AC to SC-28

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**CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN
SINGH**

ORAL ORDER

3 21-12-2019 Heard learned counsel for the parties.

2. By an order dated 18.07.2012, passed by the District Programme Officer, Siwan, the petitioner's engagement as *Anganbari Sevika* of *Anganbari* Centre No. 85 in the district of Siwan has been cancelled. It is evident from the impugned order itself that before issuance of the said order, a show cause notice was given to the petitioner and her explanation was sought.

3. It appears that a team comprising of Child



Development Project Officer, Maharajganj and four other female members had made a surprise inspection of the centre in question when the petitioner was found absent and *Anganbari* Centre was found closed. It is also alleged that the petitioner was, thereafter, summoned by them from her house, who resided in the same village, whereupon she came with her husband and upon having been asked about her absence and closure of centre, she misbehaved with the CDPO and other female members of the team. This made CDPO make a recommendation to the competent authority for cancellation of the petitioner's engagement as *Anganbari Sevika*. An FIR was also registered for the said occurrence, against the husband of the petitioner.

4. A show cause notice was issued to the petitioner, which was responded to by her, whereafter the impugned order was passed by the District Programme Officer. The petitioner's appeal against the said order dated 11.07.2012, issued on 18.07.2012, the petitioner had preferred appeal before the Collector, Siwan, which too has been dismissed by an order dated 16.10.2012, which is under challenge.

5. Learned counsel appearing on behalf of the petitioner has submitted, referring to the impugned order dated



11.07.2012, that the District Programme Officer has prepared a format for passing an order for cancellation of selection of *Anganbari Sevika* and in the present case, has just filled up the blanks without any application of mind. He has submitted that the petitioner had submitted her explanation justifying the action but the District Programme Officer without considering the said explanation, passed the impugned order dated 11.07.2012. He has further submitted that though the order of the District Magistrate is reasoned and speaking, the defect in the original order of non-application of mind, cannot be said to have been cured by subsequent reasons assigned in the order passed by the appellate authority.

6. Learned counsel appearing on behalf of the State of Bihar, on the other hand, has submitted that the petitioner was given due opportunity to submit her representation and after considering her representation, the District Programme Officer has passed the impugned order dated 11.07.2012, which has been rightly affirmed by the Collector, Siwan.

7. I find substance in the submission made on behalf of the petitioner that the impugned order, passed by the District Programme Officer, Siwan, cannot be said to be speaking. It has just referred to consideration of the explanation of the petitioner



without any discussion as to why the petitioner's explanation was not acceptable to him.

8. This is to be noted that engagement of *Anganbari Sevika* is governed by the Guidelines issued by the State of Bihar and according to Clause 8.5 of the Guidelines, issued in 2010, the District Programme Officer was required to pass a speaking order after giving the parties an opportunity of hearing.

9. Since, I am of the considered view that the impugned order dated 18.07.2012 cannot be said to be speaking, in my opinion, the said order requires interference. The order dated 18.07.2012 is accordingly set aside.

10. I am also of the view that subsequent speaking order of the appellate authority is not capable of curing the defect in the original order passed by the District Programme Officer, who was required to pass a speaking order. Accordingly, both the order dated 18.08.2012 and subsequent order dated 28.09.2012/16.10.2012 are set aside. The matter is remanded back to the District Programme Officer, Siwan to pass an order afresh, which must be speaking and reasoned, within a period of one month from the date of receipt/ production of a copy of this order.

11. It is made clear that consequence of quashing of the



orders impugned shall not lead to automatic reinstatement of the petitioner. The final order passed by the District Programme Officer or the appellate authority shall determine whether the petitioner is to be reinstated or not.

12. Application is allowed with the aforesaid observation.

(Chakradhari Sharan Singh, J)

Rajesh/-

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