

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2676 of 2013

1. Urmila Devi W/O Chitranjan Sahni R/O Village- Amaitha, P.S.- Saraiya,
District- Muzaffarpur

... .. Petitioner

Versus

1. The State Of Bihar
2. The Commissioner-Cum-Secretary Social Welfare Department, Govt. Of Bihar, Patna
3. Director, I.C.D.S., Govt. Of Bihar, Patna
4. District Magistrate-Cum-Collector, Muzaffarpur
5. The District Welfare Programme Officer, Muzaffarpur
6. Child Development Project Officer, Saraiya, Muzaffarpur
7. Mukhiya, Gram Panchayat Raj Amaitha P.S. and Anchal- Saraiya, District- Muzaffarpur
8. Panchayat Secretary Gram Panchayat Raj Amaitha, P.S. and Anchal- Saraiya, District- Muzaffarpur
9. Anjana Kumari W/O Lal Babu Sah R/O Village- Amaitha, P.S.- Saraiya, District- Muzaffarpur

... .. Respondents

Appearance :

For the Petitioner/s	:	Mr. Samrendra Kumar Jha
For the Respondent/s	:	Mr. Subodh Kumar, AC to SC 26
For respondent No. 9	:	Mr. Shashi Bhushan Singh

CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

8 05-11-2019 Heard learned Counsel for the petitioner, respondent

State as well as Counsel for the private respondent.

The petitioner pursuant to an inspection by ICDS team was removed from her working as Anganwari Sevik for Center No. 144. The inspection was conducted on 11.1.2008. The petitioner was found absent at the time of inspection and take home ration was not found at the center in question.



The petitioner approached the District Programme Officer against cancellation of her selection. The District Programme Officer has considered the petitioner's plea that she had left the center in question just prior to the inspection in order to participate in polio vaccination programme being carried out on that date. The District Programme Officer has taken note of the fact that at other centers in the locality Sevikas were also found absent and visited with similar consequences on that date, on account of polio vaccination. The petitioner's plea was thus accepted by the District Programme Officer.

Respondent No. 9 who had come to be selected in the meantime was thus removed and the petitioner was reinstated as Sevika for the center in question. The matter thereafter travelled to the Collector in appeal. The findings of fact have been interfered with by the Collector by recording a finding that the order of the District Programme Officer accepting the explanation of the petitioner does not appear to be correct. Findings in the order of the Collector are baseless.

The other aspect of the matter is that at best even if lapse is accepted then the same constitutes absence for one day. Whether in case of absence on one single day the Sevika can be visited with extreme punishment of cancellation of her selection



is an issue which stands concluded in a decision of this Court passed in the case of *Sabita Kumari vs. State of Bihar & ors* rendered in *CWJC No. 308 of 2015*, wherein such punishment on account of one day's absence has been found to be excessive and disproportionate.

In the circumstances, this Court would direct the Collector, Muzaffarpur to reconsider the matter. Both parties would appear before the District Magistrate on or before 27.11.2019. The Collector shall proceed to hear the parties and pass appropriate orders expeditiously without undue delay and preferably within three months thereafter.

The writ petition is allowed.

In order to facilitate consideration the order of the Collector dated 26.10.2012 passed in appeal is hereby quashed.

(Madhuresh Prasad, J)

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