

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No 11717 of 2013

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Sheela Devi, Wife Of Sri Pramod Kumar, Resident Of Village - Tekka Bigha,
P.O. - Lakhanpura, P.S. - Bakhtiarpur, District- Patna

... .. Petitioner/s

Versus

1. The State Of Bihar through the Principal Secretary, Department of Social Welfare, Govt of Bihar, Old Secretariat, Bailey Road, Patna
2. The Director, ICDS, Indira Bhawan, Ramcharitra Singh Path, Bailey Road, Patna- 1
3. The Director, Department Of Social Welfare, Govt of Bihar, Old Secretariat, Bailey Road, Patna
4. The District Magistrate, Patna, District- Patna
5. The District Programme Officer Patna, District- Patna
6. The Sub-Divisional Officer, Patna-City Sub-Division, Dist.- Patna
7. The Child Development Project Officer, Bakhtiarpur Block, District- Patna
8. Lady Supervisor, Bakhtiarpur Block, District- Patna
9. The Commissioner, Patna Division, Patna

... .. Respondent/s

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For the Petitioner/s	:	Mr Vishwanath Singh, Sr Advocate with Mr Dilip Kumar, Advocate
For the Respondent/s	:	Mr Yogendra Pd Sinha, AAG VII Mr Shanker Kumar, AC to AAG VII

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CORAM: HONOURABLE MR JUSTICE MADHURESH PRASAD
ORAL JUDGMENT

Date : 05-08-2019

Learned counsel for the petitioner is permitted to implead the Divisional Commissioner, Patna Division, Patna as respondent No 9.

2 Heard learned counsel for the petitioner and the respondent-State.

3 Submission made by the learned Senior Counsel appearing for the petitioner is that the Commissioner, while deciding the Miscellaneous Appeal Case No 160 of 2012, has failed to take into consideration the effect of the order passed in



the case of Sabita Kumari -Versus- State of Bihar & Others in CWJC No 308 of 2015 holding that cancellation of selection on account of one day's absence is disproportionate and excessive punishment. He further submits that on account of the other irregularities alleged to have been found in the inspection of the Angan Bari Centre, the Department of Integrated Child Development Scheme (for brevity, ICDS) under Communication dated 20.06.2012 has prescribed lesser punishment. The effect of the Communication dated 20.06.2012 issued by the Directorate of ICDS has also not been considered by the Commissioner, Patna Division while rejecting the petitioner's Miscellaneous Appeal Case No 160 of 2012.

4 This Court, under the earlier order dated 18.06.2019, had made a specific query whether someone has been selected in the meantime as Anganbari Sevika for the Centre in question. The petitioner has filed a supplementary affidavit stating that no selection for the Centre in question has been done till date.

5 If that be so, the Commissioner (respondent No 9) should reconsider the order passed in Miscellaneous Appeal Case No 160 of 2012 in light of the Communication of the ICDS Circular dated 20.06.2012 and law, as declared by this Court in the case of Sabita Kumari (supra).



6 In order to facilitate such consideration, the petitioner would be at liberty to bring this fact and issues to the notice of the Commissioner by supplementing her appeal within a period of two weeks from today.

7 It is made clear that if, however, third party rights have occurred in the meanwhile, then the fresh incumbent should be noticed and allowed opportunity to represent her case in the proceedings before the Commissioner in appeal. While reconsidering the matter, the earlier order dated 03.01.2013/05.03.2013 passed by the Divisional Commissioner, Patna Division in Miscellaneous Appeal Case No 160 of 2012 shall not stand in way of the petitioner's claim in light of this order.

8 Final, reasoned and speaking order in accordance with law should be passed by the Commissioner having regard to the aforesaid material within a period of eight weeks thereafter.

9 Writ petition is disposed of with the aforesaid directions.

(Madhuresh Prasad, J)

M.E.H./-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	16.08.2019
Transmission Date	NA

