

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13821 of 2013

=====

Pramila Devi, wife of Sri Surendra Rai, resident of village Mandah Dih,
Block & P.S. Patepur, District Vaishali

... .. Petitioner/s

Versus

1. The State of Bihar
2. The Principal Secretary, Social Welfare Department, Bihar Patna
3. The Director, Integral Child Development Scheme, Social Welfare Department, Patna
4. The District Magistrate, Vaishali at Hajipur
5. The District Program Officer, Vaishali at Hajipur
- The Child Development Project Officer, Patepur, Vaishali

... .. Respondent/s

=====

Appearance :

For the Petitioner/s	:	Mr. Rama Shankar Das, Adv.
For the Respondent/s	:	Mr. Sunil Kr. Mandal, SC-3
		Mr. Bipin Kumar, AC to SC-3

=====

CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL ORDER

5 21-12-2019 Heard learned counsel for the parties.

2. The petitioner has put to challenge an order dated 23.03.2012, passed by the District Programme Officer, Vaishali in Case No. 13 of 2012 whereby engagement of the petitioner as *Anganbari Sevika* for *Anganbari* Centre No. 40, Patepur in the district of Vaishali has been cancelled.

3. Petitioner had preferred an appeal against the said order, which has been rejected by the District Magistrate, Vaishali vide order dated 17.05.2013, passed in Misc. Case No. R-03/2012-13, which is also under challenge in the present writ application.



4. Learned counsel appearing on behalf of the petitioner has relied on a Division Bench decision of this Court in case of *Prabha Kumari Devi vs. The State of Bihar and others* reported in *2010 (2) PLJR 374* to contend that the impugned order dated 23.03.2012, passed by the District Programme Officer, Vaishali is beyond jurisdiction. He has submitted that the Division Bench has categorically held that the District Programme Officer does not have jurisdiction to cancel the engagement of an *Anganbari Sevika*. He has also submitted that though an explanation was sought from the petitioner before passing of the impugned order, the petitioner's explanation has not been duly considered. Assailing the impugned order dated 17.05.2013, passed by the appellate authority, learned counsel for the petitioner has submitted that the same is non-speaking and unreasoned and, therefore, requires interference by this Court.

5. Learned counsel appearing on behalf of the State of Bihar, on the other hand, has submitted that there is no illegality in the impugned order, as the same has been passed after giving the petitioner an opportunity of hearing. He has also submitted that the District Programme Officer did have the jurisdiction when he passed the order on 23.03.2012. The decision to cancel



the petitioner's engagement was taken in the light of a recommendation made by the Senior Deputy Collector in 2011 when the Guidelines issued in 2010 was in vogue. He has accordingly submitted that the decision of Division Bench of this Court in case of ***Prabha Kumari Devi*** (supra) has no application in the facts and circumstances of the present case.

6. I find substance in submission made on behalf of the respondents-State of Bihar that the Division Bench decision in case of ***Prabha Kumari Devi*** (supra) does not have any application in the facts and circumstances of the present case, since the case before the Division Bench was being adjudicated upon in the light of “समेकित बाल विकास सेवा योजना अन्तर्गत आँगनबाड़ी सेविका/सहायिका के चयन संबंधी मार्गदर्शिका, 2006”. The State Government has come out with new Guidelines in 2010, Clause 8.5 of which reads thus :-

“8.5 सेविका/सहायिका द्वारा केन्द्र संचालन में अनियमितता बरते जाने का प्रतिवेदन प्राप्त होने पर जिला प्रोग्राम पदाधिकारी संबंधित पक्षों को सुनकर 30 दिनों के अंदर मुखर आदेश पारित करेंगे।”

7. It is clear from 2010 Guidelines that the District Programme Officer has been conferred with the power to pass speaking order. The order, which has been passed by the District Programme Officer, is speaking order, in my view, as the order has taken into account the case of the petitioner, as put forth in



her explanation. She was given personal hearing also.

8. The order of the District Magistrate, Vaishali dated 17.05.2013 also cannot be said to be unreasoned or non-speaking for the reason that he has taken into account crucial aspects of the matter while agreeing with the finding of the District Programme Officer. The findings recorded by the court below cannot be said to be without any basis or on the basis of something, which was completely irrelevant. Such findings, in my opinion, do not require interference by this Court in a proceeding under Article 226 of the Constitution.

9. This application is accordingly dismissed.

(Chakradhari Sharan Singh, J)

Rajesh/-

U			
---	--	--	--

