

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No 5409 of 2015

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Baby Kumari W/O Late Binod Mistry. Resident of Village - Chhata, P.O.-
Chhata, P.S.- Mashaurhi, District - Patna.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. The Deputy Director Welfare, Patna Division, Patna.
3. The District Magistrate, Patna, District - Patna.
4. The District Programme Officer, Patna, District - Patna.
5. The Child Development Project Officer, Block Mashaurhi, District - Patna.
6. Baby Kumari. W/o Chandra Bhushan Singh, Resident of village and P.O.-
Chhata, P.S.- Mashaurhi, District - Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr Jitendra Kumar Singh, Advocate
For the S t a t e	:	Mr Umesh Kumar Roy, AC to GP XI
For Respondent No 6	:	M/s Sanjay Kumar, Raj Kamal, Advocates

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CORAM: HONOURABLE MR JUSTICE MADHURESH PRASAD

ORAL JUDGMENT

Date : 19-02-2019

Heard learned counsel for the petitioner, State and
respondent No 6.

2 Respondent No 6, who was the Angan Bari Sevika at
Angan Bari Center situated in Village – Chhata, under Gram
Panchayat – Sahabad in the district of Patna, was removed
subsequent to an inspection of the Center on 04.06.2011. While
she was pursuing her remedies against the removal, the petitioner
came to be selected as Angan Bari Sevika pursuant to a selection
process initiated against Advertisement under Social Welfare



Department Letter No 3027 dated 27.11.2011. The merit list was prepared and published on 27.07.2012. Petitioner was selected and joined as Angan Bari Sevika at the Center in question on 20.06.2014.

3 The Deputy Director, Welfare, Patna Division had set aside the termination order of respondent No 6 in the appeal filed by respondent No 6 on 15.01.2015. In terms of said order passed in Angan Bari Appeal Case No 5 of 2014, respondent No 6 became entitled to be reinstated as Angan Bari Sevika for the Center Code No 43 (at present 13) wherein the instant petitioner was selected and allowed to start her duties in the meantime.

4 The writ petition has been filed challenging the order passed on the appeal of respondent No 6. It is submitted that the order has been passed without affording an opportunity of hearing to the petitioner though the petitioner's right had been created in the meanwhile during pendency of the appeal. It is submitted that since the petitioner had not been impleaded in the Angan Bari Appeal Case No 5 of 2014, she should not be made to suffer on account of the order passed therein.

5 The respondent-State has filed a counter affidavit. The stand of the State Government is that in view of the Letter issued by the Social Welfare Department dated 14.01.2010, the



authorities, who were advertising the vacancies for selection of Angan Bari Sevikas on account of removal of the earlier incumbent (Respondent No 6), were required to mention in the Notice/Advertisement that selection was being done subject to result of pending claim of the earlier incumbent of the post in pending proceedings. In compliance of the said departmental instructions dated 14.01.2010, the Patna Collectorate, while issuing the notice for appointment of petitioner in the newspaper on 03.03.2012, has specifically mentioned that the selection is subject to result of the pending claims of the earlier incumbent in the pending proceedings in light of the departmental Letter dated 14.01.2010. It is pursuant to such Notice/Advertisement that the petitioner was selected. The nature of her selection was dependent upon the pending proceedings in Angan Bari Appeal Case No 5 of 2014 filed by respondent No 6.

6 Since the petitioner had a right subject to the pending proceedings, she cannot claim anything more. Non-impleadment of the petitioner in the appeal, therefore, causes no prejudice to the petitioner. The petitioner has not been removed on grounds of any irregularity or illegality in her selection. She has been removed to make way for reinstatement of Respondent No 6 since removal of respondent No 6 had been held to be not in accordance with law



by the Appellate Authority. Even if the petitioner was impleaded as party to the appeal, the same would be of no avail to the petitioner since the nature of her selection was contingent upon the adjudication of depending claim of the earlier incumbent, in this case respondent No 6; and upon her removal being set aside, petitioner was obliged to make way for Respondent No 6.

7 For the reasons indicated herein above, this Court does not find any merit in the writ petition. The same is dismissed.

(Madhuresh Prasad, J)

M.E.H./-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	23.02.2019
Transmission Date	NA

