

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11989 of 2013

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Pushpa Devi, Wife of Devendra Singh, resident of Village - Mathiya, P.S. -
Dinara, District – Rohtas.

... .. Petitioner

Versus

1. The State of Bihar through Secretary, Social Welfare Department, Bihar, Patna.
2. Director, Integrated Child Development Service (Social Welfare Development) Bihar, Patna.
3. District Magistrate, Rohtas.
4. District Programme Officer, Rohtas.
5. Child Development Project Officer, Dinara (Rohtas).
6. Shri Awinash Kumar Singh , Senior Deputy Collector, Rohtas.
7. Assistant Engineer, Rural Works Division-2, Sasaram

... .. Respondents

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Appearance :

For the Petitioner/s : Mr. R.K. Priyadarshi, Advocate
For the Respondent/s : Mr. S.S.P. Yadav, S.C.-14

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY
ORAL JUDGMENT
Date : 19-06-2019

Heard learned counsel for the petitioner and learned
counsel for the State.

2. In the present case, the petitioner has prayed for the
following reliefs:-

*“(i) To quash the order dated 28.04.2012 passed by
District Programme Officer, Rohtas, in Case No.
08 / 12-13 whereby and whereunder the
petitioner has wrongly been removed from the
post of Anganbari Sewika of Anganbari Centre
No.84, Mathiya Samhuti (Dinara).*



- (ii) To quash the order dated 16.11.2012 passed by the District Magistrate, Rohtas, in Misc. (Anganbari Sewika) Appeal No.27/2012 whereby and whereunder the appeal filed by the petitioner against the aforesaid order of removal has wrongly been dismissed.*
- (iii) To direct the respondents to reinstate the petitioner on the aforesaid post with effect from the date of her removal and to pay the entire back wages.*
- (iv) To grant any other relief or reliefs to which the petitioner is entitled for.”*

3. The petitioner was appointed as Anganbari Sevika of Anganbari Centre – Mathiyan of Dinara Block in the District of Rohtas on 25.04.2003. An inspection was made by Senior Deputy Collector along with Assistant Engineer, Rural works Department, Division -II, Sasaram on 05.11.2011, submitted their report stating that when they have made inspection, at the centre only 7 children were found present, transpired chocolates were provided to them by way of break-fast and *Khichari* was prepared for the lunch, accordingly, an explanation was sought from the petitioner, which the petitioner replied stating that on the day of inspection total 33 children were present and she had not committed any wrong in running the centre. The District Programme Officer, Rohtas, was not satisfied with the



explanation submitted by the petitioner, thereby her engagement as Anganbari Sevika vide order dated 28.04.2012 has been dispensed with. Against that, the petitioner filed an appeal before the District Magistrate, Rohtas, who vide order dated 16.11.2012 dismissed the appeal.

4. From the order of the District Magistrate it appears that a plea was taken by the petitioner that only 7 children were present and rest children had gone to bring their plates and after that they have returned at the centre, but while passing the impugned order the Appellate Authority has recorded a finding with respect to the inquiry report, wherein the Deputy Collector during inspection has found that sufficient number of plates were available, so the plea of the petitioner that rest children had gone to bring their respective plates is defiance of logic and having no substance.

5. Learned counsel for the petitioner submits that only one misconduct has been found that in place of 33 children only 7 children were present at the centre. He further submits that the petitioner is running the centre for long period and on single occasion this report has been submitted against her.

6. In the counter affidavit, plea has been taken by the



State that inspection was conducted on two occasions, first inspection was made prior to 05.11.2011, but due to non-availability of inspection register proper entry could not be made about the T.H.R. Further stated that second time inspection was made on 05.11.2011 and during inspection 7 children were found present at the centre and chocolates were provided to them by way of break-fast, so it is a case of serious misconduct.

7. Having considered the rival contentions of the parties, it appears that the petitioner was proceeded for the misconduct with respect to single incidence that an inspection was made on 05.11.2011, in which the report has been submitted that only 7 children were present at the centre and they have been provided only chocolates by way of break-fast and *Khichari* was prepared for lunch. It is a single instance the petitioner was found to be committed an error by given a wrong number of children as only 7 children were present at the centre, but she claims that altogether 33 children were there. The report submitted by the higher authority i.e. Deputy Collector cannot be taken lightly as the purpose of scheme initiated by the Union of India to give nutritious food to the children itself is defeated, but it is the single instance, the District Programme Officer could have inflicted another punishment in place of termination of



engagement of petitioner as Anganbari Sevika.

8. In such view of the matter, the order dated 28.04.2012 passed by District Programme Officer, Rohtas as well as the order dated 16.11.2012 passed by the of the Appellate authority i.e. District Magistrate, Rohtas, are quashed. The matter is removed back to the District Programme Officer, Rohtas, to pass fresh appropriate order of punishment looking to the gravity of misconduct as has been reported by the Deputy Collector. All the exercise must be completed by the competent authority within a period of three months from the date of receipt/production of a copy of this order.

9. With the aforesaid observations and directions, this writ petition is allowed to the above extent.

(Shivaji Pandey, J)

pawan/-

AFR/NAFR	N.A.F.R.
CAV DATE	N/A.
Uploading Date	22.06.2019
Transmission Date	

