

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.12895 of 2018**

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Sudha Kumari @ Sudha Devi, W/o Ramanand Kumar Village -  
Chandinowa Tola chandinowa, P.S.- Kashichak, District- Nawada

... .. Petitioner/s

Versus

1. The State Of Bihar
2. The District Magistrate, Nawada
3. The District Programme Officer, Nawada
4. The Block Development Officer, Kashichak, Nawada
5. The Child Development Project Officer, Kashichak, Nawada

... .. Respondent/s

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**Appearance :**

For the Petitioner : Mr. Krishna Deo Raj, Advocate  
For the Respondents : Mr. Gyan Prakash Ojha -GA-7

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**CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR**  
**ORAL JUDGMENT**

**Date : 16-04-2019**

Heard the learned counsel for the parties.

2. The petitioner is aggrieved by the order dated 05.08.2016 passed by the District Programme Officer, Nawada as also the order dated 29.05.2018 passed by the District Magistrate, Nawada in Aanganwari Appeal No. 47 of 2016 in Case No. 133(M)/2016, whereby the appointment of the petitioner on the post of Aanganwari Sevika at the concerned centre has been terminated on the ground of her having been found to be absent on the day when a flying visit was made to the centre.

3. From the records as also the impugned orders, it appears that a flying visit was made at the



centre on 23.07.2016 at about 11:40 A.M. by the Block Development Officer, Kashichak. On the date and time of the visit of the Block Development Officer, Kashichak, the petitioner was found absent and only the Sahayika, who was not even properly attired was found present at the centre. The Block Development Officer, Kashichak found that there were only 14 children available at the centre. No reason was given by the Sahayika with respect to the absence of the petitioner (Aanganwari Sevika). As a result of the aforesaid, the petitioner was asked to explain the reason for her absence on 23.07.2016 at 11:40 A.M.

4. The petitioner is said to have represented that she has been working as Aanganwari Sevika since 1996 and in the past there had been no complaint regarding the conduct of the petitioner regarding distribution of the foodgrains/eatables to children or conducting the affairs of the centre in proper manner. On the day of the visit of the Block Development Officer, Kashichak, the petitioner was informed by somebody of her village that her mother is on death bed. This information was given to the Aanganwari Sahayika, who was given further instructions to continue the working of the centre for the day and she rushed to see her mother. The mother of the petitioner is still ill.

5. However in written explanation, despite her having given clear instructions to the counsel who drafted



the explanation that she had to leave the centre because of her mother being seriously ill, it was wrongly communicated to the District Programme Officer, Nawada that her mother had died, which explanation was also given in appeal before the Collector. That fact having been found to be incorrect and for the absence of the petitioner for just one day, the services of the petitioner has been terminated.

6. Learned counsel for the petitioner has drawn the attention of this Court to the application/show cause reply which was filed before the District Programme Officer (contained in Annexure-5 to the writ petition) stating that she had left the centre for visiting her mother who was on death bed. The written statement before both the authorities that the mother of the petitioner had died and therefore she had left the centre for participating in her last rites is factually incorrect, which has wrongly been stated by the counsel appearing on behalf of the petitioner before both the authorities.

7. In the present writ petition, it has been argued, a categorical statement has been made in paragraph-8 thereof that the petitioner had taken leave on 23.07.2016 because of the serious illness of her mother. Apart from this, it has been argued that only for absence of a day at the centre, which also was under certain exceptional



circumstances, there was nothing on record for both the authorities viz. the District Programme Officer and the District Magistrate, Nawada to come to the conclusion that the petitioner had derelicted or had been in the habit of derelicting her duties as an Aanganwari Sevika.

8. The order terminating the appointment of the petitioner on that ground alone viz. her having been found absent on a particular day, on a flying visit, without ascertaining the correctness/genuineness of the explanation so offered, the decision of the authorities with respect to termination of the petitioner as Aanganwari Sevika appears to be rather harsh, and to a large extent, unsustainable.

9. For the aforesaid reasons, the orders impugned in the present writ petition are set aside.

10. The petitioner is directed to make a fresh representation before the District Magistrate, Nawada (respondent no. 2) within a period of two weeks from today, who shall re-visit the order of termination of service of the petitioner and shall pass a reasoned order in accordance with law within a period of six weeks thereafter.

11. While giving this direction, this Court has taken note of the submission advanced on behalf of the petitioner that after the termination of service of the petitioner, no process for summoning Aam Sabha for the



purposes of filling up the post, which stood vacated with the termination of the service of the petitioner, has been initiated as yet and nobody therefore has been appointed on such post.

12. The petition is allowed and disposed of with the directions as aforesaid.

**(Ashutosh Kumar, J)**

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