

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.913 of 2018

In

Civil Writ Jurisdiction Case No.25301 of 2013

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Smt. Neetu Kumari, Wife of Sh. Dilip Kumar, R/o Village - Hathitola, P.S. -
Maner, District - Patna, Bihar.

... .. Appellant

Versus

1. The State of Bihar
2. The Director, Intergrated Child Development Scheme, I.C.D.S., Indira Bhawan, Ram Charitra Singh Path, Boring Canal Road, Patna.
3. The District Magistrate, Patna.
4. The District Programme Officer, I.C.D.S., Patna.
5. The Child Development Project Officer, Maner, District - Patna.
6. The Child Development Project Officer, Patna Sadar.
7. Smt. Sangeeta Devi, W/o Sh. Pintu Kumar, Resident of Munji Tola, P.S.-
Maner, Distt.- Patna.

... .. Respondents

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Appearance :

For the Appellant/s	:	Mr. Bishnu Kant Dubey, Advocate
For the State	:	Mr. Pushkar Narain Shahi, AAG-6
		Mr. Dharendra Kumar, A.C. to A.A.G.-6
For the Respondent No.7:		Mr. Abhay Shankar Jha, Advocate
		Mr. Sanjay Kumar Jha, Advocate
		Mr. Hrishikesh, Advocate

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

and

HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE SHIVAJI PANDEY)

Date : 04-02-2020

Heard learned counsel for the appellant, learned
counsel for the State as well as learned counsel for private
respondent no.7.

2. In this appeal, the appellant is confining his



challenge to the judgment and order dated 16.05.2018 passed in Civil Review No.401 of 2017, arising out of C.W.J.C. No.25301 of 2013.

3. The appointment of private respondent no.7 namely, Smt. Sanjeeta Devi, as Anganbari Sevika, in Munji Tola centre, Code No. 152, has been cancelled on the ground that on 26.05.2012 an inspection was conducted at 12:30 pm. and centre was found to be closed and finding was recorded that the centre was not in operation since 14.05.2012. The challenge was made before the Writ Court and the ground was taken that the centre was closed at 11:30 am. i.e. after working hours, so the question the centre would remain open at 12:30 does not arise, inasmuch as, the charges do not comprises about the closure of the centre since 14.05.2012 and this part was not confronted to the private respondent. On this ground, the Writ Petition has been allowed and the matter has been remanded back to the District Programme Officer, Patna, to consider the matter afresh in accordance with law. It was also directed by the Writ Court that the private respondent shall be reinstated on the post, in question, without any delay.

4. When the time has come for implementation of the order of the Writ Court and reinstatement of the private



respondent, the present appellant has moved before the District Programme Officer, by way of filing Anganbari Miscellaneous Case No. 30 of 2017, making a submission that she has filed a review application, in such circumstance, the implementation of the order of the Writ Court should be stayed but, the District Programme Officer vide order dated 27.01.2018 rejected the prayer of the appellant. Whereafter, the review application viz. Civil Review No.401 of 2017 was taken up for hearing and the Review Court after placing reliance on the judgment of Hon'ble Supreme Court in the case of ***Poonam vs. State of Uttar Pradesh and Others*** reported in ***2016 (1) PLJR (S.C.) 218*** and quoting paragraph no.48 of the said judgment held that in the proceeding before the Writ Court, the appellant was not a proper or necessary party and as such, impleadment of the present appellant does not arise, and as such, the claim of the appellant that the order in the writ proceeding has been passed without hearing has been rejected by the Review Court.

5. Learned counsel for the appellant submits that in the order of the writ Court there is no direction for fresh consideration but, in the present case only consideration has to be given with regard to the validity of the order passed in the Review application. As the appellant, in the present appeal, has



not challenged the order passed in the writ Court, in such circumstance, this Court is not required to dwell the issues raised in the writ proceeding. Only this Court has to confine its consideration with regard to the validity of the order passed in the Review Application. As the order of the Review Court is based upon the judgment of the Hon’ble Supreme Court, we do not find any error in the order passed in the Review Application.

6. In such view of the matter, we do not find any merit in this appeal, accordingly, the same is dismissed.

(Shivaji Pandey, J)

(Anjani Kumar Sharan, J)

pawan/-

AFR/NAFR	N.A.F.R.
CAV DATE	N/A.
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