

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8630 of 2020

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Kumari Kiran Rai Wife of Bijai Kumar Rai Resident of Village- Maripur, P.O.
and P.S.- Phulwaria, District- Gopalganj.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Govt. of Bihar, Patna.
2. The Principal Secretary, Education Department, Govt. of Bihar, Patna.
3. The Principal Secretary, Social Welfare Department, Govt. of Bihar, Patna.
4. The Director, ICDS, Bihar, Patna.
5. The Deputy Director, Social Welfare Department, Saran Division, Chhapra.
6. The Collector-cum-District Magistrate, Gopalganj.
7. The Commissioner, Saran Division Chapra.
8. The District Programme Officer, Gopalganj.
9. The Child Development Project Officer, Phulwaria Block, District-Gopalganj.
10. Sandhya Devi @ Sandhya Pandey Wife of Late Jitendra Pandey Resident of Village- Maripur, P.O. and P.S.- Phulwaria, District- Gopalganj.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Vishwajeet Kumar Mishra, Advocate
For the Respondent/s : Mr. Lalit Kishore (Ag)

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CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
ORAL JUDGMENT

Date : 09-12-2021

Heard learned counsels for the parties.

In the instant petition, petitioner has prayed for the
following reliefs:

“(i)For issuance of an appropriate writ/order/direction quashing the order dated 25.02.2020 passed by the Ld. Commissioner Saran Division Chhapra, where by and where under learned commissioner has set aside the order dated 06.07.2018 passed by District Program Officer, Gopalganj. The order has been passed ex-party without hearing the petitioner.



(ii) For issuance of any other appropriate writ/order/direction to the Respondents for reinstating the petitioner as Anganbari Sevika at ward no.-7 Village-Maripur P.O+P.S-Phulwariya (Center no.-132).

(iii) For issuance of any other appropriate writ/order/direction to which he is found entitled to.”

On 02.02.2021 the following order was passed:

“The matter has been heard via video conferencing.

2. Heard Mr. Vishwajeet Kumar Mishra, learned counsel for the petitioner and Mr. Umesh Narayan Dubey, learned AC to GP 27, for the State.

3. The petitioner has moved the Court for the following reliefs:

“That this application is being filed for issuance of an appropriate writ/order/direction quashing the order dated 25.02.2020 passed by the Ld. Commissioner Saran Division Chhapra, whereby and where under learned commissioner has set aside the order dated 06.07.2018 passed by District Program Officer, Gopalganj. The order has been passed ex-party without hearing the petitioner.

1/A. That the petitioner further prays for issuance of any other appropriate writ/order/direction to the Respondents for reinstating the petitioner as Anganbari Sevika at ward no. 7 village-Maripur P.O + P.S.-Phulwariya (Center no.-132)

1/B. That the petitioner further prays for issuance of any other appropriate writ/order/direction to which he is found entitled to.”

4. The contention of the petitioner is that respondent no. 10 has been illegally appointed on the post of Anganwari Sevika as there is charge of fraud against her. It was further submitted that the appeal filed before the respondent no. 7, was allowed without any notice to her.

5. Learned counsel for the State pointed out that the order impugned indicates that several opportunities were given to the petitioner but she chose not to appear.

6. Learned counsel for the petitioner submitted that she has not received any notice and the Court may call for the records to verify as to where such notices were sent.



7. Having regard to the aforesaid, let learned counsel for the State file detailed paragraph-wise reply to the contentions raised in the writ petition. He shall also bring on record copies of documents relating to where notice was submitted and how notices were served on the petitioner.
8. Further, let notice be issued to the respondent no. 10, both under registered cover with A/D as well as ordinary process for which requisites etc. must be filed within one week from today.
9. The matter be listed upon service of notice or appearance of the respondent no. 10, whichever is earlier, among the top five cases.”

Learned counsel for the State has filed a reply in which there is no *iota* of material evidence to establish that petitioner was given a notice on this score itself, the impugned order is liable to be set aside. Accordingly, the matter is remanded to the concerned authority to pass a fresh order after giving due opportunity to both the petitioner and private respondent i.e. Respondent No. 10 and proceed to pass a speaking order after due consideration of their say in the matter.

The above exercise shall be completed within a period of two months from the date of receipt of this order.

(P. B. Bajanthri, J)

Gaurav Kumar/-

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	

