

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10731 of 2018

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Gudiya Devi Wife of Surendra Paswan, Resident of Village- Rajapur, P.O.
Bhadaria, P. S. Amarpur, District- Banka.

... .. Petitioner

Versus

1. The State of Bihar through Principal Secretary, Welfare Department, Patna.
2. The Secretary, Welfare Dept., Govt. of Bihar, Patna.
3. The Director, ICDS Directorate, Bihar, Patna.
4. The District Magistrate- Cum- Collector, Banka.
5. The District Programme Officer, Banka.
6. The Chief Development Programme Officer, Amarpur.

... .. Respondents

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Appearance :

For the Petitioner : Mr. Ranjan Kumar Jha, Adv.

For the State : Mr. Prashant Pratap- GP2 with
Mr. Lala S. N.Ravi, AC to GP-2.

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CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL JUDGMENT

Date : 05-09-2022

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

2. The admitted position is that on account of closure of
Anganwadi center on 08-05-2022, the petitioner, who was *sahayika* of
Center no. 52, has been removed.

3. The petitioner's counsel places reliance on the decision of
this Court in the case of *Sabita Kumari vs. The State of Bihar & Ors* in
CWJC No. 308 of 2015, wherein, this Court has held that penalty of



removal or cancellation of selection, for a single day aberration is extreme and for such extreme punishment, where, plausible explanation for absence is given is, unsustainable.

4. In the instant case also, explanation taken note of by the District Programme Officer in the impugned order dated 13-06-2012 as contained in Annexure-3 to the writ petition as well by the District Magistrate in the Appellate order dated 23-02-2016, as contained in Annexure-4 to the writ petition, is a plausible explanation, that the petitioner had gone for fetching water and had fallen down for which she had gone to get herself examined and, in this period, the center in question was inspected and found closed.

5. Learned State counsel submits that in view of the decision of this Court in the case of *Sabita Kumari* (supra), the legal position is settled. He, having submitted so, states that the petitioner's appeal was dismissed by the District Magistrate on 23-02-2016 and after delay of more than two years, the present application was filed and, on account of such delay, if someone else has been selected in place of the petitioner, then there is no basis for removing of such person, in view of the delay and laches on the part of the petitioner in approaching this Court.

6. Considering the rival submissions, this Court would hold that if no person has been selected in her place at center no. 52, in the meantime, petitioner be reinstated as *Sahayika* for center in question.



The said relief has been made conditional on account of delay on the part of the petitioner in approaching this Court.

7. The writ application is disposed of accordingly.

(Madhuresh Prasad, J)

shyambihari/-

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