

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No 3449 of 2020

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Asha Devi Wife of Manoj Kumar Resident of Village- Harpur, P.O.- Harpur,
P.S.- Ghodasahan, District- East Champaran.

... .. Petitioner/s

Versus

1. Government of Bihar Through the Secretary, Department of Social Welfare, Bihar, Patna.
2. Director Integrated Child Development Services, Bihar, Patna.
3. The District Magistrate East Champaran at Motihari.
4. The District Programme Officer (ICDS) East Champaran at Motihari.
5. The Child Development Project Officer Aadapur, East Champaran.
6. Lady Supervisor Child Development Project Adapur, Adapur, East Champaran.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr Shantanu Kumar, Advocate

For the Respondent/s : Mr Gyan Prakash Ojha, GA VII

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CORAM: HONOURABLE MR JUSTICE MADHURESH PRASAD

ORAL JUDGMENT

Date : 21-09-2022

Heard learned counsel for the petitioner and the respondents.

2 On 20.01.2015, the Anganwari Center was inspected by the Child Development Project Officer. The Center was found to be non-functional. Petitioner and Sahayika were absent.



Petitioner, who is Sevika of the Center bearing Center No 10, Adapur in the district of East Champaran at Motihari, was served with a notice dated 20.01.2015 itself. The same has been responded by the petitioner raising a plea that after concluding the activities of the Center in question on 19.01.2015, she had fallen ill and requested the Sahayika to continue with the dissemination of welfare measures at the Center in question.

3 Learned counsel for the petitioner submits that from perusal of the report itself, attached to the notice, it is evident that the Sahayika was not present at the Center in question and the District Programme Officer has cancelled the petitioner's selection on ground of the Center being non-functional/closed at the time of inspection, which has been affirmed by the District Magistrate in appeal. The two orders have been assailed in the instant writ proceedings. It is submitted that the petitioner had valid cause for absence from the Center in question which has been communicated to the authorities in response to the show cause. The same has not been considered. It is also submitted that at best it constitutes a single day aberration of closure on one particular day for which the extreme consequence of petitioner's selection being cancelled, is disproportionate and unsustainable. Specific reliance is placed on decision of this Court in the case of *Savita*



Kumari -Versus- State of Bihar & Others (CWJC No 308 of 2015) wherein, under similar circumstances, the penalty of removal or cancellation of selection for a single day aberration has been held to be an extreme and disproportionate consequence.

4 The learned State Counsel submits that the order has been passed since the petitioner was, admittedly, not present and the Center was found closed on the date of inspection. Therefore, no interference is required with the impugned order. However, he is not in a position to dispute the legal position emanating from the decision of this Court in the case of ***Savita Kumari (supra)***. It is the specific submission of the learned counsel for the petitioner that till today, no selection has been made in place of the petitioner.

5 If that be so, the petitioner will be reinstated forthwith.

6 The impugned order dated 25.06.2019 passed by the Collector -cum- District Magistrate, East Champaran at Motihari in Anganwari Case No 113 of 2015 affirming the order dated 27.03.2015 passed by the District Programme Officer, East Champaran at Motihari in Case No 3 of 2013 - 2014 cancelling the petitioner's selection are hereby quashed as being an extreme and disproportionate consequence on finding of a single day aberration.



7 Writ petition is allowed.

(Madhuresh Prasad, J)

M.E.H./-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	01.10.2022
Transmission Date	NA

