

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.79 of 2018

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Anita Devi Wife of Mithilesh Yadav, Resident of Village- Phulwariya,
Panchayat- Badwasini, P.S.-Katoria, District- Banka.

... .. Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Social Welfare Department, Govt. of Bihar, Patna.
2. The Principle Secretary, Social Welfare Department Govt. Bihar, Patna.
3. The Director, I.C.D.S. (Social Welfare Department) Govt. Bihar, Patna
4. The Commissioner Bhagalpur Division, Distt.-Bhagalpur
5. The District Magistrate Banka, District-Banka
6. The District Programme Officer, Banka, District- Banka
7. The Child Development Officer, Katoria, District- Banka
8. The Mahila Supervisor, Child Development Project, Katoria, District-Banka.

... .. Respondents

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Appearance :

For the Petitioner	:	Mr. Sharda Nand Mishra with Mr. Sanjay Kumar Jha, Advocates
For the State	:	Mr. S.K. Mandal- SC 3 with Mr. Arjun Pd. & Ms. Neelam Kumari, AC to SC-3

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CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL JUDGMENT

Date : 26-07-2022

Heard learned counsel for the petitioner and learned
Standing counsel No. 3 for the State.

2. On ground of Center No. 28 at Badwasini being found
closed on the date of inspection (04-02-2012), the petitioner's
selection as '*Sahayika*' has been cancelled.

3. Learned counsel for the petitioner submits that the
impugned punishment of cancellation of selection on the ground
of single day absence even if admitted for the sake argument is



excessive and disproportionate. 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 this court has held that the extreme penalty of removal or cancellation of selection, for one single aberration arising out of absence for one day, should not be resorted to and cannot be sustained. This Court is persuaded to take a similar view in the instant case, wherein, also allegation is regarding absence of one single day.

4. On query being made whether anybody has been selected in place of the petitioner, petitioner's counsel submits that the petitioner has no instructions in the matter and that this Court may mould the relief in favour of the petitioner accordingly.

5. Learned State counsel submits that petitioner's absence was without any justifiable reason and, therefore, the impugned order does not require any interference. However, he is not in a position to dispute the legal position emanating from the decision in the case of ***Savita Kumari (supra)***.

6. Considering the rival submissions, this Court would hold that removal of the petitioner based on single aberration is disproportionate having regard to the decision of this Court in case of ***Savita Kumari (supra)***.



7. However, since there is no intimation regarding the fact that whether a new ‘*Sahayika*’ has been selected or not. This Court would observe that if no selection has been made on the post vacated by the petitioner, the petitioner be reinstated.

8. The writ petition is allowed in the aforesaid terms.

(Madhuresh Prasad, J)

shyambihari/-

AFR/NAFR	NAFR
CAV DATE	N/A
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Transmission Date	

