

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No 1218 of 2021

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Usha Devi, W/o Mohar Ram, Resident of Village-Karanjuan, Panchayat-Indaur, Block-Itarhi, Dist-Buxar.

... .. Petitioner/s

Versus

1. State of Bihar through the Principal Secretary, Social Welfare Department, Govt. of Bihar, Patna.
2. The Principal Secretary, Social Welfare Department, Govt. of Bihar, Patna.
3. The Director, ICDS, Patna.
4. District Magistrate, Dist-Buxar.
5. The Child Development Project Officer, Itarhi, Dist-Buxar.
6. The District Programme Officer (Establishment), Buxar.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr Bijay Shankar Choubey, Advocate
For the Respondent/s : Mr Gyan Prakash Ojha, GA VII

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CORAM: HONOURABLE MR JUSTICE MADHURESH PRASAD

ORAL JUDGMENT

Date : 21-07-2022

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

2 This writ petition has been filed praying for the following reliefs:

“(I) For the issuance of appropriate Writ/Writs, Order/Orders, Direction/Directions in the nature of Writ of Certiorari for setting aside the order dated 13.12.2019 passed by learned District Magistrate, Buxar, in Appeal No 103/2015 whereby and whereunder the learned District Magistrate, Buxar -cum- Appellate Authority has rejected the appeal of the petitioner upholding the order dated 27.08.2015 passed by



the District Programme Officer, Buxar, whereby and whereunder the appointment of the petitioner on the post Aanganbari Sevika has been cancelled.

(II) And for the issuance of Writ of Certiorari for setting aside the order dated 27.8.2015 passed by the District Programme Officer, Buxar, whereby and whereunder the appointment of the petitioner on the post of Aanganbari Sevika has been cancelled.

(III) For issuance of Writ of Mandamus directing and commanding the respondents to reinstate the engagement of the petitioner as on the post of Aanganbari Sevika on Center Indaur Panchayat, Block – Itarhi, District – Buxar.

(IV) And for other necessary relief/reliefs to the basis of the facts and circumstances of the case.

3 The petitioner was working as Angan Bari Sevika at Centre No 97, Block – Itarhi in the district of Buxar. The same was found closed on 04.08.2015 when it was inspected by the District Programme Officer. The petitioner, thereafter, has been issued a show cause notice. It is alleged that she has responded that in the past also, she has been leaving the Centre for couple of days in connection with treatment of her son and handing over discharge of duties at the Angan Bari Centre to local female persons to ensure that the Centre keeps running.

4 Petitioner's counsel submits that the alleged admission of the petitioner that she has been absenting in the past also is



false. It is also submitted that the only charge, being enquired, was absence of the petitioner on one day, i.e., on 04.08.2015. The submission is that cancellation of petitioner's selection as Angan Bari Sevika for the Centre in question is an excessive and disproportionate consequence even if the petitioner's absence on 04.08.2015 is accepted as being unauthorized absence. 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.

5 Learned State Counsel submits that since the petitioner's own stand is that in the past also, she was absenting herself from the Centre in question, the petitioner should be treated as habitual absentee.

6 Considering the rival submissions, this Court would observe that the petitioner was only asked for explaining the closure of Centre on 04.08.2015. There is no charge of absence on earlier occasions, whether based on her admission or otherwise.

7 In view of the limited allegation of absence for one day, this Court, relying upon decision of the Division Bench in the



case of *Savita Kumari (supra)* would hold the punishment to be excessive and unsustainable.

8 The order of the District Programme Officer dated 28.08.2015 and the order of District Magistrate dated 13.12.2019 are, thus, hereby set aside.

9 This writ petition is allowed.

(Madhuresh Prasad, J)

M.E.H./-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	10.08.2022
Transmission Date	NA

