

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4522 of 2022

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Kaushami Kumari, W/o Awadh Kumar Singh @ Chandeshwar Yadav, R/o
Village - Singhaul, P.S. - Belaganj, District - Gaya (Bihar).

... .. Petitioner/s

Versus

1. The State of Bihar, through District Magistrate, Gaya.
2. District Program Officer, Gaya (I.C.D.S.)
3. C.D.P.O., Belaganj, Gaya.
4. Suvi Kumari, W/o Rajnikant Kumar @ Himanshu, R/o Village - Singhaul,
P.S. - Belaganj, District - Gaya (Bihar).

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Praveen Kumar, Adv.
For the Respondent/s : Mr.Sunil Kumar Mandal, SC-3

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

2 23-11-2023 1. The present writ petition has been filed seeking
the following relief(s):-

*"1.i. For issuance of writ in the nature of
Certiorari or any other appropriate writ or
direction to quash/ set aside order dated
20/08/2021 issued under memo no. 2837 dated
25/10/21 passed by District Magistrate, Gaya,
in Anganwadi appeal no. 14/2018 whereby and
whereunder he has affirmed the order dated
18/06/2018 passed by District Program officer,
Gaya in relation to Anganwadi Case No.
177/2018 filed by private respondent no.4.*

*ii. For issuance of writ in the nature of
Mandamus or any other appropriate writ or
direction to the respondents to appoint*



petitioner as Anganwadi sevika code no.186 centre- Singhaul Panchayat- Chiralla, Block- Belaganj, Dist- Gaya forthwith since the petitioner is selected by the Aam Sabha dated 14/02/2018 since she was first in the merit list.”

2. At this juncture, this Court would refer to a judgment rendered by a co-ordinate Bench of this Court in the case of ***Seema Kumari vs. The State of Bihar and Ors.***, reported in ***(2015) SCC Online Pat 7267***, paragraphs no. 9 to 11 whereof, are reproduced hereinbelow:-

“9. As noted above, the Anganbari Sevika is not a government servant and has no protection under Article 311(2) of the Constitution of India so as to envisage the concept of regular departmental proceeding. The petitioner was given a notice. She was informed about the allegation against her. She had filed her show-cause reply which was considered by the District Programme officer and when the order went against her, she had also been given adequate opportunity by the appellate authority who, in fact, had himself got the matter verified by referring the matter to the Bihar Sanskrit Board.

10. In that view of the matter, this Court would



not find any error in the impugned order of termination of the services of the petitioner when it is found that the petitioner had got appointment by producing a document in support of qualification which was found to be incorrect/forged.

11. Thus for the reasons indicated above, this application must fail and is, accordingly, dismissed.”

3. It would be apt to refer to yet another judgment rendered by the learned Division Bench of this Court in the case of ***Neetu Kumari v. The State of Bihar and others***, reported in ***2011 (4) PLJR 20***, paragraphs no. 4 and 5 whereof are reproduced herein below:-

“4. In our considered view, the post of Anganbari Sevika is not a post having security of tenure or protection under Article 311 of Constitution of India. Considering the very nature of engagement which provides of honorarium, we are of the view that in case the appellant still feels aggrieved, she may approach the Civil Court for damages. There is nothing at stake in such a scheme other than honorarium. For such contractual engagements the relief of reinstatement is not appropriate and even if there is breach of the scheme or any other principle of law, the claim should



ordinarily be permitted, if found good on merits, only for damages.

5. The appeal is dismissed.”

4. Considering the aforesaid aspect of the matter, the learned counsel for the petitioner seeks not to press the present writ petition, however, seeks liberty on behalf of the petitioner to avail such other alternative remedies as are otherwise available under the law. Liberty, so sought, is granted.

5. The writ petition stands dismissed.

(Mohit Kumar Shah, J)

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