

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15871 of 2015

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Babita Kumari W/o Niranjan Prasad yadav resident of Village- Fatehpur P.s
Industrial zero Mile Sabour District Bhagalpur.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, The Human Resource Development Department, Bihar, Patna.
2. The Commissioner, Bhagalpur Division, Bhagalpur.
3. The District Magistrate, Bhagalpur.
4. The District Programme Officer Bhagalpur.
5. The Child Development Project Officer, Sabour, Bhagalpur.
6. Meera Devi W/o Ram Sagar Prasad resident of Village- Fatehpur P.S
Industrial zero Mile Sabour District Bhagalpur.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Swapnil Kumar Singh, Adv.
For the Respondent/s : Mr. Vinay Kirti Singh, Adv.

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL JUDGMENT

Date : 08-09-2023

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

“1.That this writ petition is directed for quashing of order dated 02.07.2015 passed in Misc. Case No.04/ 2014-15 passed by the District Magistrate, Bhagalpur whereby the selection of the private respondent no.8 namely Meera Devi on the post of Anganbari Sevika has been affirmed without considering the facts that earlier on the direction of Hon’ble Court passed in CWJC No.7998/04 an enquiry was conducted and found that the petitioner has been wrongly appointed on the post



of Sahaika of the Anganbari Centre, Fatehpur, Sabour under the district of Bhagalpur against order private respondents moved before the Hon'ble court and filed CWJC No.3691/2006 which was disposed off on 24.03.2014 with direction to respondent-District Magistrate, Bhagalpur to pass fresh order in accordance with law though on perusal of order dated 02.07.2015, passed by the District Magistrate, Bhagalpur it appears that due to time span the respondent District Magistrate, Bhagalpur did not interfere though it is admitted fact that the earlier appointment on the post of Sevika of Anganbari centre was not in accordance with the procedure.”

2. At this juncture, this Court would refer to a judgment rendered by the learned Division Bench of this Court in the case of ***Babita Kumari v. The State of Bihar and others***, reported in ***2016 SCC Online Pat 9434***, paragraphs no. 7 and 8 whereof are reproduced herein below:-

“7. Having considered the rival contentions, we do not find any merit in the present appeal. The charges against the appellant were very clear as would be apparent from the show cause dated 22.02.2012, which was issued in light of the findings in the enquiry report as well as the relevant documents/registers which were required to be maintained at the Centre. Reply



given by the appellant, copy of which has been brought on record, does not indicate any justification and rather it has been stated that on 24.09.2011 at the time of Inspection, the children were still coming and on 07.10.2011, she herself had gone to call the children and during that time the inspection was held. It was further stated by the appellant that on 30.09.2011 she had become ill due to being drenched by rain. We find that such explanation is vague and evasive and does not inspire confidence. The spirit and object of running Anganbadi Centres cannot be overemphasized and the purpose is to ensure the welfare of children from the lowermost and deprived strata of society. Any lapse in execution of the said scheme has to be taken very seriously. Closure of even one day entails the beneficiaries going without their meals, which cannot be overlooked. Thus, we do not find any infirmity in the decision of the authorities cancelling her selection as well as the procedure adopted by them prior to passing such order.

8. For the reasons aforesaid, the Letters Patent Appeal, being devoid of merit, stands 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 law laid down by the learned Division Bench of this Court, as aforesaid, 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 as not pressed.

(Mohit Kumar Shah, J)

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AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	11.09.2023
Transmission Date	NA

