

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7201 of 2022

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Shama Pravin W/o Md. Ijhar @ Mohd. Ijhar Raza Resident of Village-
Salaiya, P.S.- Khaira, District- Jamui.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Social Welfare Department, Government of Bihar, Patna.
2. The Director, Integrated Child Development Services Scheme, Government of Bihar, Patna.
3. The Divisional Commissioner, Munger.
4. The District Magistrate, Jamui.
5. The District Programme Officer (Est.), Jamui.
6. The Child Development Project Officer, Khaira, District- Jamui.
7. The Lady Supervisor-cum-Secretary of the Selection Committee Integrated Child Development Scheme, Khaira, District- Jamui.
8. Smt. Nusharat Pravin W/o Minhajul Islam Resident of Village- Salaiya, P.S.- Khaira, District- Jamui.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Sushil Kumar Jha, Adv.
For the Respondent/s : Mr.Prashant Pratap (GP-2)

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

2 12-12-2023 1. The present writ petition has been filed seeking the
following relief(s):-

“1. That, this writ application is being filed against the order dated 25.01.2022 passed by the respondent Divisional Commissioner, Munger in Anganbari service Appeal No. 40/2021, filed by the petitioner against the order dt. 23.12.2020 passed by the respondent District Programme Officer, Jamui, whereby and where under the respondent Divisional Commissioner affirmed the order passed by the respondent District Programme Officer wherein the



selection of the petitioner on the post of Anganbari Sevika of Salaiya Anganbari Centre No.-229, Gram Panchayat Raj Goli has been cancelled on the basis of application filed by the respondent no. 8, on a wrong and erroneous assumption of facts that the original application of the petitioner is unsigned one though the Aam Sabha in its meeting dated 25.07.2017 has been pleased to select the petitioner for Anganbari Sevika since the petitioner is fulfills all the conditions for selection out of two applicants and turned down the claim of the respondent no.8 inter alia on the ground that the father-in-law of the respondent no.8 has monthly income of more than Rs.35,000/-.

This writ application is also being filed to restrain the respondents from interfere with the functioning of the petitioner as Anganbari Sevika of Salaiya Anganbari Centre no.229 of Ward no.10 under Gram Panchayat Raj Goli.”

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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