

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8051 of 2023

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Kunkun Kumari Wife of Bipin Kumar Mahto, Resident of Village-
Sanjhaghat, Panchayat- Rajghatgarael, Ward No. - 09, Block- Dhamdaha,
District- Purnea.

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Social Welfare Department,
Government of Bihar, Patna.
2. The District Magistrate, Purnea.
3. The Divisional Commissioner, Purnea.
4. The District Programme Officer, Purnea.
5. The Child Development Project Officer, Dhamdaha (Purnea).

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Shiya Ram Shahi, Advocate Ms.Namrata Singh, Advocate
For the State	:	Mr.Prashant Pratap (Gp2)

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL JUDGMENT
Date : 28-11-2023

1. The present writ petition has been filed
seeking the following reliefs:-

"a) Issuance of an appropriate writ(s)/order(s)/direction(s) in the nature of 'Certiorari' thereby, seeking to quash the Order dated 31.03.2022 (hereinafter referred to as "Revision Order" for the sake of brevity) (marked as ANNEXURE- 7 to the present Writ Petition) passed by the Learned Divisional Commissioner, Purnea (hereinafter referred to as



"Ld. Divisional Commissioner"/ Respondent No. 3" for the sake of brevity) in Miscellaneous Revision (Anganbari) Case No. 25 of 2019 (hereinafter referred to as "Revisions Case" for the sake of brevity) preferred by the Petitioner, Order dated 31.03.2022 passed by the Ld. Divisional Commissioner as being in contravention the principle of natural justice. The Ld. Divisional Commissioner, Purnea had passed the Revision Order dated 31.03.2022, the said Revision Case is not tenable in the eye of law, as no proper opportunity of hearing was provided to the Petitioner.

(b) Issuance of an appropriate writ(s)/order(s)/direction(s) in the nature of 'Certiorari' to quash the Letter bearing Memo No. 424/Jl.Pro. issued by District Programme Officer, Purnea (hereinafter referred to as "DPO, Purnea"/Respondent No. - 4 for the sake of brevity)

(c) Issuance of an appropriate writ(s)/order(s)/direction(s) in the nature of 'Certiorari' to quash the Office Order bearing Memo No. 231



dated 20.04.2022 (hereinafter referred to as "Office Order"/ "Termination Notice" for the sake brevity) (marked as ANNEXURE-8 to the present Writ Petition) issued by the Child Development Project Officer, Dhamdaha (Purnea) (hereinafter referred to as "CDPO, Purnea"/"Respondent No. 5" for the sake of brevity).

(d) Issuance of an appropriate writ/order(s)/direction(s) in the nature of 'Mandamus' to direct the Respondents herein to issue fresh Engagement Letter thereby, specifying the engagement of the Petitioner to render the service as Anganwari Sevika."

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 others**, reported in **(2015) SCC Online Pat 7267**, paragraphs no. 9 to 11 whereof, are reproduced herein below:-

"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 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, including that of filing a suit before the learned civil court of competent jurisdiction. Liberty, so sought, is granted.

5. The writ petition stands disposed off as not pressed.

(Mohit Kumar Shah, J)

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AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	29.11.2023
Transmission Date	NA

