

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7657 of 2023

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Anita kumari Wife of Arvind Kumar Sah @ Arvind Sahu. Resident of Village-Tanua, P.O.-Sonsa, Panchayat-Keuthar, P.s.-Mahesinghiya, District-Samastipur, Pin-848205.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. The Principal Secretary, Social Welfare Department, Govt. of Bihar, Patna.
3. The Director, I.C.D.S. Patna Bhawan, Baily Road, Patna.
4. The Commissioner, Darbhanga Division, Darbhanga.
5. The District Magistrate, Samastipur.
6. The District Programme Officer, Samastipur.
7. The Child Development Project Officer, Singhiya Block, District-Samastipur.
8. Jyoti Kumari Wife of Ganpati Sharma Resident of Village-Dorkahi, Panchayat and P.O.-Vishnupur Dih, P.S.-Singhiya, District-Samastipur. Correspondent address. Resident of Village-Bhabhay, P.O.-Sonsa, Panchayat-Keuthar, P.S.-Mahe Singhiya, District-Samastipur.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Jawed Gaffar Khan, Advocate Mr.Arun Kumar Prasad, Advocate
For the Respondent/s	:	Mr.Sunil Kumar Mandal (Sc 3) Mr.Arjun Prasad, AC to SC-3

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

2 05-12-2023 1. The present writ petition has been
filed seeking the following reliefs:-

*"1(i) For quashing the order of Revision Case
No. 14 of 2020 dated 02/07/2022 passed by the
Commissioner, Darbhanga Division
whereunder he has reversed the order passed
by the District Magistrate, Samastipur and has
directed to DPO, Samastipur to appoint the
respondent no. 8 in place of the petitioner, who*



was working as Aangawari Savika at Centre No. 64, under Bhabbe Marwa, Panchayat-Bishwanpur Kathar, under Singhiya Block.

(ii) Further for direction commanding the respondents not to take any step for appointment of Sevika on the same post and same centre."

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 having 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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