

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1722 of 2018

In

Civil Writ Jurisdiction Case No.829 of 2015

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Ranju Kumari, W/o Sri Satish Kumar, Anganwari Sewika, Centre No. 27,
Prathmik Vidyalaya, Chakdiwan, Sheikhpura, R/o Mohalla- Chakdiwan, P.O
& P.S.- Sheikhpura, District- Sheikhpura

... .. Appellant/s

Versus

1. The State Of Bihar through the Commissioner, Munger.
 2. The Divisional Commissioners, Munger.
 3. The District Magistrate, Sheikhpura
 4. District Programme Officer, Sheikhpura, District- Sheikhpura
- Respondent/s

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Appearance :

For the Appellant/s : Mr.Bal Bhushan Choudhary, Advocate
For the Respondent/s : Mr.Gyan Prakash Ojha- GA7

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CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI

and

HONOURABLE MR. JUSTICE ARUN KUMAR JHA

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE ARUN KUMAR JHA)

Date : 12-01-2023

In the LPA paper, inadvertently name of the appellant has been shown as Ranju Devi at some of the pages, therefore, the appellant is hereby directed to rectify the same by incorporating the appellant's name as Ranju Kumari during the course of the day.

2. Heard learned counsel for the appellant and learned counsel for the State.

3. The present L.P.A. is directed against the order dated 02.04.2018 passed in CWJC No. 829 of 2015 by the learned



Single Judge of this Court whereby and whereunder the civil writ petition filed by the appellant has been dismissed.

4. Brief facts of the case is that on the allegation that the appellant, being the Anganwari Sevika, was not running the Centre at the notified place, i.e., Primary School, Chakdiwan and she was running the Centre in the temple of a private person and for some other allegations, an explanation letter was issued to the appellant on 19.12.2011 and subsequently, a reminder was issued on 16.01.2012. In her reply dated 17.01.2012, the appellant admitted the same but has tried to explain that since there was insufficient space at the notified place, i.e., within the Primary School, Chakdiwan, she was compelled to run the Centre from the temple and as soon as she finds a proper place, she would shift the Centre. Thereafter, on the said allegation, the appellant has been removed as Anganwari Sevika from Centre No. 27 of Nagar Parishad, Sheikhpur vide order contained in Memo No. 101 dated 13.02.2012 passed by the District Programme Officer, Sheikhpura. The appellant being aggrieved by the order dated 13.02.2012 filed Misc. Case No. 06 of 2012-13 before the Collector, Sheikhpura, which was dismissed vide order dated 28.06.2012 passed by the Collector, Sheikhpura. Thereafter, the appellant preferred revision bearing Revision No. 46 of 2012 before the Divisional Commissioner, Munger and the Divisional Commissioner vide



order dated 10.12.2014 dismissed the appeal and upheld the order of the Collector.

5. Feeling aggrieved and dissatisfied with the order dated 10.12.2014 of the Divisional Commissioner, Munger and order passed by the appellate authority and the order of the District Programme Officer dated 13.02.2012 by which the petitioner's selection as Anganwari Sevika for the said Centre has been cancelled, the petitioner (appellant herein) preferred CWJC No.829 of 2015. The learned Single Judge, finding no reason to interfere with the aforesaid orders, dismissed the appellant's writ petition. Hence, the present L.P.A.

6. The learned counsel for the appellant has submitted that after submission of explanation and in view of the denial of the allegation by the appellant, no enquiry, in any form, was conducted by the District Programme Officer, Sheikhpura nor any oral or documentary evidence was taken by him either in support of allegations or against the allegations. The appellant was not afforded any opportunity of hearing and to adduce evidence in support of her explanation or in respect of the denial of the allegations made against her. But the respondent no.4, all of a sudden and without prior information to the appellant and without hearing her, passed an ex-parte order on 13.02.2012. The learned counsel for the appellant has further submitted that there is a



violation of principles of natural justice. The aforesaid material is suffice to interfere with the order of learned Single Judge and order of removal from service.

7. *Per contra*, the learned counsel for the respondents has submitted that the Anganwari Centre of the appellant was inspected by the Additional Collector, Sheikhpura on 15.12.2011 and several irregularities were found at the Centre. The appellant was asked to submit explanation on the point that board was not displayed on the Centre, there was no management of latrine and drinking water, only five children were found in uniform, the stock was not shown on demand, most of the days 60% of the children were absent, the Centre was running in a temple instead of the fixed Centre at Primary School, the registers were not available at the Centre, which contravened the rules. The learned counsel for the respondents has further submitted that the explanation submitted by the appellant was not found satisfactory. Having found the irregularities committed by the appellant at the Centre and the explanation which was not found satisfactory, the appellant was terminated from the post of Anganwari Sevika by the District Programme Officer, Sheikhpura. Hence, the learned Single Judge, in view of the admitted position that the Anganwari Centre was not being run at the notified place and was being run in the temple of a private person, found no reason to interfere with



the impugned orders.

8. Having considered the materials on record, it appears that on 15.12.2011, Anganwari Centre of the appellant was inspected by the Additional Collector, Sheikhpura, who submitted an inquiry report to the District Magistrate, Sheikhpura. Thereafter, on 19.12.2011, a letter was sent to the appellant regarding irregularities found at the Centre and she was directed to run the Centre from a rented house or a government building. Again on 16.01.2012, an explanation was sought from the appellant regarding some irregularities and she was directed to submit an explanation giving reference to the previous letter dated 19.12.2011 within three days, otherwise her selection would be cancelled. Pursuant to the said letter, the appellant submitted her explanation on 17.01.2012 stating therein that she was compelled to run the Centre in the temple due to lack of space in the primary school and she would shift as soon as she found a proper place for the same. Again on 20.01.2012, she submitted further explanation stating therein that she could not submit the required explanation on time due to untimely death of her father, death of her father-in-law and after that fracture of her son's leg and she denied the allegation of irregularities against her. Thereafter, the appellant was served with an order dated 13.02.2012 regarding termination of her selection as Anganwari Sevika. Thus, from the chronology



of events, it is clear that within a span of two months, the Centre of the appellant was inspected, she was asked for explanation, a reminder was sent and without considering her explanation, she was terminated from the service.

9. It is not in dispute that the appellant had been removed from the post of Anganwari Sevika based on certain allegations and no opportunity of hearing was afforded to her after the appellant had submitted her show cause. The respondent no.4, all of a sudden without prior information to the appellant and without hearing, passed an ex-parte order behind her back on 13.02.2012. In other words, there is a clear violation of principles of natural justice. The aforesaid material is suffice to interfere with the order of learned Single Judge and order of the authority for removal of the appellant from service.

10. Moreover, recently the Apex Court in the case of **Deepak Ananda Patil vs The State Of Maharashtra & others** reported in **2023 Live Law (SC) 30** in para 17 has held as under:

“17. It is a well-established principle of administrative law that an adjudicatory body cannot base its decision on any material unless the person against whom it is sought to be utilized has been apprised of it and given an opportunity to respond to it. Surveying the precedents extensively, MP Jain & SN Jain's treatise on Principles of Administrative Law notes that: “If the adjudicatory body is going to



rely on any material, evidence or document for its decision against a party, then the same must be brought to his notice and he be given an opportunity to rebut it or comment thereon. It is regarded as a fundamental principle of natural justice that no material ought to be relied on against a party without giving him an opportunity to respond to the same. The right of being heard may be of little value if the individual is kept in the dark as to the evidence against him and is not given an opportunity to deal with it. The right to know the material on which the authority is going to base its decision is an element of the right to defend oneself. If without disclosing any evidence to the party, the authority takes it into its consideration, and decides the matter against the party, then the decision is vitiated for it amounts to denial of a real and effective opportunity to the party to meet the case against him. The principle can be seen operating in several judicial pronouncements where non-disclosure of materials to the affected party has been held fatal to the validity of the hearing proceedings”.

11. The Apex Court in the case of ***Esteem Properties Pvt. Ltd. Vs. Chetan Kamble and Others, reported in 2022 (4) SCALE 284***, held that even the administrative orders which are quasi-judicial must be passed after giving the opportunity to the concerned person. The principle laid down in this case is aptly applicable to the case in hand. In paragraph no. 28, the Apex Court held as under :-

“...This Court has clearly advocated the importance of natural justice and an opportunity of hearing to be afforded to the affected party in any administrative or quasi-



judicial proceedings umpteen number of times ...”

12. In the light of discussion made hereinabove and under the facts and circumstances of the case, it is clear that the learned Single Judge erred while upholding the order of removal of the appellant and hence, the present L.P.A. deserves to be allowed and is accordingly allowed. The order of learned Single Judge dated 02.04.2018 passed in CWJC No.829 of 2015, is quashed and set aside.

13. Consequently, this Court directs the concerned respondents to reinstate the appellant as Anganwari Sevika of Ward No. 12 of the Nagar Panchayat, Sheikhpura within a period of three months from the date of communication of a copy of this judgment.

(P. B. Bajanthri, J)

(Arun Kumar Jha, J)

V.K.Pandey/-

AFR/NAFR	A.F.R.
CAV DATE	N.A.
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