

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5505 of 2023

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Madhuri Kumari, W/o Sri Randhir Mandal, R/o Vill- Habbipur (Ward No.10),
PO- Mathurapur, P.S.- Kahalgaon (Shivnarayanpur), District- Bhagalpur.

... .. Petitioner/s

Versus

1. The State of Bihar through the Secretary Social Welfare Department, Government of Bihar, Patna.
2. The Secretary, Social Welfare Department, Government of Bihar, Patna.
3. The Divisional Commissioner, Bhagalpur.
4. The District Magistrate, Bhagalpur.
5. The District Programme Officer, Bhagalpur.
6. The Child Development Project Officer, Kahalgaon, Bhagalpur.
7. The Mahila Parwekshak, (Womens Supervisor), Kahalgaon, Bhagalpur.
8. Ms. Amrita Kumari W/o Arvind Kumar Sinha, R/o Laugayen, Ward No.9, PO- Mathurapur, P.S.- Kahalgaon, District.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Basant Kumar Mishra
For the Respondent/s : Smt. Kumari Amrita (GP3)

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CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI
ORAL ORDER

- 3 19-06-2024 1. The petitioner was appointed as Anganwari Sewika in respect of Ward No. 10 of Mohalla – Habbipur by an order dated 28th of January, 2020. The Private Respondent No. 8 was one of the applicants for the said post in respect of the same Ward and Mohalla. However, her candidature was rejected because of the fact that she is a permanent resident of Ward No. 9 of Mohalla- Habbipur and she could not be appointed as Anganwari Sewika in respect of Ward No. 10. Subsequently, the Respondent No. 8 made an application for her appointment as



Anganwari Sewika in Ward No. 9 of Mohalla – Habbipur. Thereafter, she withdrew her application and submitted an application before the District Programme Officer, stating, *inter alia*, that she was a resident of Ward No. 10 and her candidature was wrongly cancelled. The District Programme Officer, Bhagalpur made an *ex parte* order directed the *Aam Sabha* to terminate the petitioner and give appointment to Respondent No. 8.

2. The petitioner made a representation before the District Programme Officer, stating entire facts and by an order dated 3rd of July, 2021, the District Programme Officer recalled the earlier order dated 28th of June, 2021 and directed the concerned authority to appoint the petitioner.

3. The Respondent No. 8 filed an appeal against the order dated 3rd of July, 2021 before the Divisional Commissioner, Bhagalpur.

4. The Divisional Commissioner, Bhagalpur by order dated 29th of June, 2022 set aside the order passed by the District Programme Officer dated 3rd of July, 2021 on the ground that the District Programme Officer had no authority to recall or review his own order under any provision of law.

5. The said order dated 29th of July, 2022 is under



challenge in the instant writ petition.

6. At the outset, I have no hesitation to hold that the instant writ petition is not maintainable under Article 226 of the Constitution of India because the post of Anganwari Sewika is not a post having security of tenure or protection under Article 311 of the Constitution of India.

7. Considering the very nature of engagement which provides for honorarium, the remedy of the petitioner does not lie in the Constitutional Writ Jurisdiction. If the petitioner feels aggrieved, she may approach the Civil Court of competent jurisdiction for appropriate relief. Since the appointment of Anganwari Sewika is under a Scheme where they are entitled to get the honorarium and the nature of employment is absolutely contractual, the relief of reinstatement is not appropriate and even if there is breach of scheme or any principle of law, the claim should ordinarily be permitted, if found good on merits, only for damages.

8. The decision of this Court in *Neetu Kumari v. The State of Bihar & Ors.*, reported in *2011 (4) PLJR 20*, may be relied upon in this regard.

9. Recently, a Co-ordinate Bench of this Court reiterated the same view in *Parvati Devi v. State of Bihar &*



Ors., reported in **2024 (1) BLJ 178** and also in *Urmila Kumari v. State of Bihar & Ors.*, reported in **2024 (I) BLJ 361**.

10. The same view was also taken by another Co-ordinate Bench in an unreported decision, dated 29.01.2024, passed in *C.W.J.C. No. 2661 of 2018 (Geeta Devi v. The State of Bihar & Ors.)*.

11. Following the above-mentioned decisions, the instant writ petition is dismissed.

(Bibek Chaudhuri, J)

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