

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5630 of 2023

-
1. Lalita Kumari @ Lalita Devi Daughter of Lakhan Yadav, Wife of Raju Yadav, Resident of Village Itra, P.S. M.U. Bodhgaya, District-Gaya.
 2. Manju Kumari @ Manju Devi, Wife of Tuntun Yadav, Resident of Village Itra, P.S. M.U. Bodhgaya, District-Gaya.

... .. Petitioner/s

Versus

1. The State of Bihar its through Chief Secretary, Bihar, Patna.
2. The Principal Secretary Health Department, Bihar, Patna.
3. The Collector under the district of Gaya.
4. Civil Surgeon cum Secretary, Gaya.
5. District Health Program Management Committee, Gaya.
6. Medical Officer/In-charge Medical Officer, Primary Health Centre, Bodhgaya, Dist-Gaya.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Anil Kumar Saxena, Advocate
For the Respondent/s : Mr. Ramadhar Singh (GP-25)

CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL ORDER

4 30-10-2024 Heard Mr. Anil Kumar Saxena, learned counsel

 appearing on behalf of the petitioners and Mr. Ramadhar Singh,

 learned GP-25 for the respondents.

2. The petitioners in paragraph no. 1 of the present writ petition have sought *inter alia* following relief(s), which is reproduced hereinafter:

"(1) That this writ application is being filed for issuance of appropriate writ/writs in the nature of mandamus commanding the respondents or direction/directions to the respondents authority to permit to perform its assign duty in respective areas and set aside the bearing letter no. 785, Bodhgaya dated 7/11/22 issued by in-charge Medical Officer Community Health Center Bodhgaya as well as bearing letter no. 1351/DHS dated 13/9/22 issued by civil surgeon Cum Secretary District Health committee Gaya."



3. Petitioners are aggrieved by Letter No. 785 dated 07.11.2022, by which the selection of the petitioners has been cancelled by '*Aam Sabha*' amongst other candidates.

4. Learned counsel appearing on behalf of the petitioners calls for interference with the decision of the District Health Society duly constituted in terms of the government scheme for appointment of Asha Workers. The rejection on the very sole ground that due to non availability of the guidelines, the selections of the petitioners was not done in accordance with the guidelines and, as such, petitioners have been terminated after selection. Learned counsel further submitted that the petitioners cannot be held responsible for non availability of the guidelines at the time of their selection before the Selection Committee for being considered by the '*Aam Sabha*'. The order impugned also don't give any reason, as to which instruction of the guidelines, which was required to be followed, has been violated. On these grounds, learned counsel seeks the impugned order communicated vide Letter No. 785 dated 07.11.2022 to be set aside and quashed.

5. *Per contra*, learned counsel appearing on behalf of the respondents submitted that due to non availability of the guidelines, the same was not placed before the Selection



Committee for being considered by the *Aam Sabha* and, as such, impugned order contained in Letter No. 785 dated 07.11.2022 need not to be interfered by this Court.

6. Heard the parties.

7. Having considered the rival submissions made on behalf of the parties and their respective pleadings, as well as, the very object to facilitate health services at the village level, the selection of Asha Worker is mandated to implement the scheme of the government. Petitioners were selected and appointed on 19.02.2021 to the post of Asha worker. From the very perusal of the order of termination, I find that the same is unilateral and no opportunity of hearing was provided to the petitioners or similarly situated other Asha Workers. The law in this regard is well settled that once having selected, due process of law has to be followed for terminating an employee even if the appointment is illegal or it is not in accordance with the guidelines or the service conditions rules. The Civil Surgeon has unilaterally taken decision to terminate the services of the petitioners as contained in Letter No. 785 dated 07.11.2022 without communicating to the petitioners the decision of the Committee, which has been brought for the first time by way of Letter No. 1351 dated 13.09.2022 (Annexure-R-4/E).



8. The decision taken behind the back of the petitioners calls for interference, accordingly, the communication contained in Letter No. 785 dated 07.11.2022 is hereby set aside and quashed.

9. The concerned respondent is directed to take the petitioners back in service of Asha Worker forthwith and extend the monetary benefits during the intervening period from the date of termination i.e. 07.11.2022 till reinstatement, within a period of one month from the date of receipt/production of this order.

10. With aforesaid observation/direction, the present writ petition is disposed of.

(Purnendu Singh, J)

Niraj/-

U			
---	--	--	--

