

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15288 of 2014

Chinta Kumari, Wife of Parsuram Paswan, Resident of Village - Saujana Tola Raghunathpur, P.O. - Subhawanpur Surhi, P.S. - Islampur, District- Nawadah, Ex- Sahayika, Makhdumpur Angahwari Centre Code No. 99, Islampur, District- Nalanda.

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary Social Welfare Department, Government of Bihar, Old Secretariat, Patna
2. The Commissioner, Patna Division, Patna.
3. The Director, I.C.D.S., Patna having its office at Indira Bhawan, Baily Road, Patna.
4. The Deputy Director, Welfare Department, Patna Division, Patna.
5. The District Magistrate cum Collector, Nalanda at Bihar Sharif.
6. The District Programme Officer, Nalanda at Bihar Sharif.
7. The Child Development Project Officer Islampur, Nalanda.
8. The Mukhiya, Gram Panchayat Raj, Makhdumpur, Nalanda.
9. Seema Kumari, Wife of Satyendra Prasad Yadav, Resident of Village - Makhdumpur, P.S.- Islampur, District- Nalanda at Present Sahayika, Anganwari Centre Makhdumpur Code - 99 Islampur, District - Nalanda.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Sanjay Kumar Sinha, Advocate
For the Respondent/s	:	Mr. S.K. Mandal, SC-3
		Mr. Arjun Prasad, AC to SC-3

CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL ORDER

5 07-10-2024 Heard Mr. Sanjay Kumar Sinha, learned counsel appearing on behalf of the petitioner and Mr. S.K. Mandal, learned SC-3, along with Mr. Arjun Prasad, learned AC to SC-3 appearing on behalf of the State.

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

“(i) For issuance of writ in the nature of certiorari quashing the order dated 8-2-2014 passed by Deputy Director Welfare, Patna



Division, Patna passed in Anganwari Appeal No. 9/2013 (Seema Kumari, Sahayika Vs. The state of Bihar & others) by which allowed the appeal filed by appellant without given opportunity to hear the petitioner and issued letter vide memo No. 126/Wel. Patna dated 20-2-14 as well as Office order vide its Gyapank 178 dated 21- 5-14 issued under the signature of Child Development Project Officer, Islampur Nalanda where by and whereunder cancelled the Selection of petitioner from the post of Anganwari Sahayika from Makhdumpur Centre code No.99 without any rhyme and reason Saying as in pursuance of order vide Gyapank 126 dated 20-2-14 and in compliance order of District Programme Officer vide its letter No. 528 dated 4-3-14 and directed the Seema Kumari to join on the post of Anganwari Sevika Makhdumpur Centre Code No. 99 and of cancelled the selection of the petitioner from the post of Sahayika of Makhdumpur Anganwari Centre No.99 from immediate effect issued by Child Development Project Officer, Islampur Nalanda vide Gyapank No. 178 dated 21-5-14.

(ii) For issuance of writ in the nature of mandamus directing and commanding the respondent to re-instate the petitioner with back emoluments on the post of Anganwari Sahayika Makhdumpur centre code No. 99 under Child Development Project Officer, Islampur; removal from the service of Nalanda after Seema Kumari (Respondent No.9) who appointed on the post of petitioner with effect from 21-5-14 vide letter No.178 dated 21-5-2014 issued by Child Development Project Officer, Islampur, Nalanda.

(iii) For issuance of any other writ/writs, direction/directions, order/orders Lordships may deem fit and proper.”

3. Learned counsel appearing on behalf of the petitioner submits that the petitioner was appointed as Anganbari Sahayika on 23.01.2013 and thereafter her appointment was cancelled vide order dated 21.05.2014, as such, the petitioner seeks to avail appropriate remedy by filing suit before the competent civil court having jurisdiction for redressal of her grievance as prayed for in Para-1 of the writ petition in light of the law laid down by the Apex Court in case of ***State of Karnataka & Ors. vs. Ameerbi & Ors.*** reported in ***(2007) 11 SCC 681.***



4. The Apex Court in the case of *Ameerbi (supra)* has held that there is no straitjacket formula that all the employees, who fall under the purview of Article 12 of the Constitution would be government employees. Only because the State controls the Integrated Child Development Services (I.C.D.S.) Programme, its employees cannot take shelter under Article-311 of the Constitution that in any manner, the selection process has not taken place in accordance with law.

5. It is further made clear that in the State of Bihar, the guidelines in respect of 'Anganwari Sevika and Sahaikaa', cannot be said to have been enacted in accordance with Article-309 of the Constitution and the procedure followed as per the requirement of Article-311 of the Constitution necessitates in case of the 'Anganwari Sevika'.

6. Considering the submission made on behalf of the petitioner, the present writ petition stands disposed of with liberty to the petitioner to file suit before the competent civil court having jurisdiction.

(Purnendu Singh, J.)

Mantreshwar/-
Ashishsingh/-

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