

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10771 of 2013

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Sobha Devi W/O Shambhu Prasad Resident Of Village Post - Shakurabad,
P.S. - Shakurabad, Block - Ratni Faridpur, District - Jehanabad

... .. Petitioner/s

Versus

1. The State Of Bihar
2. District Magistrate, Jehanabad
3. District Programme Officer, Jehanabad
4. C.D.P.O., Ratni Faridpur, District - Jehanabad
5. Rukhshana Praveen, W/o Naushad Alam, R/o Vill- Shakurabad, Ward No. 6,
Panchayat Sheshnva, Block Ratri Faridpur, Distt. Jehanabad.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Ms. Manisha Singh, Adv
Ms. Roona, Adv

For the Respondent/s : Mr. Naman Nayak, AC to AAG-13

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CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN
ORAL JUDGMENT

Date : 14-08-2024

Heard learned counsel for the petitioner and learned
counsel for the State.

2. The present writ petition has been filed for quashing of
the order dated 12.03.2013 passed by the District Magistrate,
Jehanabad whereby and whereunder the District Magistrate
upheld the order of termination dated 23.09.2011 as well as the
order dated 16.07.2012 passed by the District Programme
Officer, Jehanabad.

3. Counsel for the petitioner submits that the petitioner
was working as “Anganwari Sevika” at Shakurabad Uttari



Kendra Code No. 68, Panchayat-Sesamba, Block-Ratani Faridpur in the District of Jehanabad. Counsel submits that the petitioner was appointed and after her joining, she was working on the said Anganwari Centre to the satisfaction of the authorities and in this regard, a letter of appreciation has also been issued by the District Magistrate, Jehanabad to the petitioner.

4. Counsel submits that the petitioner has to appear in B.A. Part-I (Hons.) examination 2011, therefore, he requested for leave from the concerned C.D.P.O Ratani, Faridpur for the period of 01.08.2011 to 19.08.2011. The letter of the petitioner dated 29.07.2011 was considered and the concerned C.D.P.O. has granted leave for the aforesaid period which is apparent from the letter dated 30.07.2011. Counsel for the petitioner further submits that Secretary, Social Welfare Department, Patna, inspected the said Anganwari Centre on 23.08.2011 in the District of Jehanabad, where petitioner was posted and found certain discrepancies. In this regard, the District Programme Officer, Jehanabad issued show-cause notice to the petitioner. Thereafter, petitioner has replied to the show-cause but, even then the D.P.O has not considered the show-cause of the petitioner and termination order has been passed vide order



dated 23.09.2011 by which the petitioner was terminated from service. The petitioner being aggrieved and dissatisfied with the order dated 23.09.2011 has preferred writ petition before this Hon'ble Court in C.W.J.C. No. 20773 of 2011 which was disposed off vide order dated 16.12.2011, in which the petitioner had informed to this Hon'ble Court that appeal is already pending before the District Magistrate, Jehanabad upon which Hon'ble Court was pleased to direct the District Magistrate, Jehanabad to decide the appeal within fixed period of time. Counsel further submits that the District Magistrate vide order dated 19.03.2012 set aside the order of termination dated 23.09.2011 passed by the District Programme Officer, Jehanabad and the matter was remitted back to the D.P.O to pass a reasoned order, and thereafter, petitioner filed representation before the D.P.O on 11.06.2012 wherein the D.P.O has refuted the charges levelled against the petitioner but the D.P.O. Jehanabad has reiterated his earlier order of termination dated 23.09.2011 vide his order dated 16.07.2012. In result, the termination of the petitioner continued.

5. Being aggrieved and dissatisfied with the order of the D.P.O. dated 16.07.2012, petitioner has preferred appeal before the District Magistrate, Jehanabad afresh, bearing Case No.



47/DM/2012. Thereafter, the District Magistrate, Jehanabad vide order dated 12.03.2013 found the orders passed by the D.P.O. Jehanabad dated 23.09.2011 and 16.07.2012 to be legal and therefore, being aggrieved and dissatisfied with the order of the District Magistrate, Jehanabad as well as the District Programme Officer, Jehanabad the petitioner has preferred the present writ petition.

6. Learned counsel for the petitioner submits that the service of the Anganwari Sevika and Sahaiyka has been guided by the Social Welfare Department, Government of Bihar, through its I.C.D.S. Directorate, Bihar Patna. Counsel submits that with regard to the inspection, there is specific guidelines issued which is annexure-13 of the present writ petition. Counsel submits that in the said guideline, it has specifically been stated that in the case of closing of centre or absence of Anganwari Sevika and Sahaiyka on the said centre or the presence of student is 14 or less than 14 or with the presence of other discrepancies mentioned in the first inspection, then a strict warning shall be imposed upon the concerned Anganwari Sevika, but in the second inspection, if it has been found that there has been no measures taken in the light of warning, then only the order of termination shall be made. Counsel submits



that from the entire case, it is apparent that the inspection made by the officials was basically for the first inspection on 23.09.2011, but the official themselves ignored the guidelines framed by the I.C.D.S., Directorate of Social Welfare Department, Government of Bihar and it is due to this reason, the order passed by the D.P.O. Jehanabad and District Magistrate is completely illegal and likely be set aside.

7. Learned counsel for the State, on the other hand, submits that the orders passed by the District Programme Officer, Jehanabad, as well as District Magistrate, Jehanabad, are well reasoned order and there is no need of any interference in both the orders.

8. Upon perusal of the records, it transpires to this Court that the said guidelines has come into existence in the year 2012, but inspection has been made in the year 2011, but final orders were passed only after issuance of guidelines in which the said guidelines have completely been ignored. The reason that the guidelines indicates about the course of action which has to be adopted by the officials, who were making inspection. The Guidelines of the I.C.D.S. is stated as under:

बाल विकास परियोजना कार्यालय, पटना सदर-5

कार्यालय आदेश

बिहार सरकार समाज कल्याण विभाग आई.सी.डी.एस.
निदेशालय, बिहार, पटना के पत्रांक -956 दिनांक 14.03.12 एवं
पत्रांक-2120 दिनांक 20.06.12 के निष्पादन में बाल विकास



परियोजना, पटना सदर-5 अंतर्गत सभी सेविका/सहायिका को सूचित किया जाता है कि क्षेत्र भ्रमण के दौरान जाँच पदाधिकारी द्वारा केन्द्र पर निम्नलिखित कमी पाये जाने पर निम्नलिखित सारणी के अनुसार पोषाहार रिकवरी एवं चयनमुक्ति की कार्रवाई की जाये।

1. के दिन चयनमुक्ति की कार्रवाई निम्न परिस्थिति में

केन्द्र बन्द या सेविका/सहायिका अनुपस्थित।

9.00 से 1.00 के बीच बच्चों की संख्या 14 या 14 से कम।

केन्द्र पर बोर्ड, लाभार्थियों की सूची (प्रतिदिन पोषाहार, टी.एच.आर. की मात्रा), पोषाहार का मेन्यु, समय सारणी नहीं रहने पर। केन्द्र की सफाई, बच्चों की सफाई, बर्तन की साफ-सफाई नहीं रहने पर।

..... प्रथम जाँच में सुधार हेतु कड़ी चेतावनी।

..... द्वितीय जाँच में चयनमुक्ति।

9. Here in the present case, the adjudication has been made in the year 2012 and at that very time there was a specific guideline that has to consider those guidelines in its positive perspective, which has not been considered at all by the Officials, as order under challenge is of the year 2013 passed by the District Magistrate and order dated 16.07.2012 passed by the D.P.O.

10. As such, this Court hereby set aside both the orders i.e. order dated 12.03.2013 passed by the District Magistrate, Jehanabad whereby District Magistrate upheld the order of termination dated 23.09.2011 and order dated 16.07.2012 passed by the District Programme Officer, Jehanabad and it has been directed to the respondent to accept the joining of the petitioner after the production/receipt of a copy of this order.

11. With the aforesaid observation and direction, the



present writ petition stands allowed.

(Dr. Anshuman, J)

Sunnykr/-

AFR/NAFR	
CAV DATE	NA
Uploading Date	15.08.2024
Transmission Date	NA

