

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11505 of 2019

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Mamta Kumari Wife of Sri Barun Kumar Mishra R/o Village-Sheohar, P.O.
Lagma, P.S.-Dumra, District-Sitamarhi

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna
2. The Principal Secretary Social Welfare Department, Government of Bihar, Patna
3. The Director Integrated Child Development Services, Bihar, Patna
4. The District Magistrate-cum-Collector Sitamarhi, District-Sitamarhi
5. The District Programme Officer (ICDS) Sitamarhi, District-Sitamarhi
6. The Child Development Project Officer Dumra Rural, District-Sitamarhi
7. Suman Kumari Wife of Sri Raushan Mukhiya R/o Village-Sheohar, P.O. Lagma, P.S.-Dumra, District-Sitamarhi

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Pushpendra Kumar Singh, Adv. Smt. Divya Bharti, Adv.
For the State	:	Mr. Dr. Md. Raisul Haque (SC-10)

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CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN
ORAL ORDER

5 17-09-2024 Heard learned counsel for the petitioner and learned counsel for the State. No one appears on behalf of private respondent no.7.

2. It transpires to this Court that *vide* order dated 30.07.2024, a specific direction was given to respondent no.7 to file the counter affidavit within 27.08.2024 failing which, appropriate order shall be passed. But till date, no counter affidavit has been filed on behalf of respondent no.7. Today no one appears on behalf of respondent no.7.



3. As such, this Court hereby debars respondent no.7 from filing the counter affidavit in this case as she herself not shown any interest to defend this case and today, she is not present in the Court either herself or through any of her counsel. In this circumstance, this Court has no option left but to pass order in this case in absence of respondent no.7.

4. The present writ petition has been filed for quashing the order dated 29.03.2019 in *Anganwadi* Appeal Case No.61 of 2017 (annexed as Annexure-P/11) passed by the District Magistrate-cum-Collector, Sitamarhi (respondent no.4) which was communicated under Memo No. 1113 dated 02.04.2019 and further to set aside the order passed by the District Programme Officer (ICDS), Sitamarhi (respondent no.5) cancelling the selection of the petitioner.

5. It is the specific pleading of the petitioner that the order impugned dated 29.03.2019 has been passed behind her back. By virtue of supplementary affidavit, it has been categorically mentioned that notice was not served upon the petitioner. It has also been mentioned that no notice was served upon the petitioner to appear in appeal and to file written statement. It has been specifically pleaded that the petitioner has got no knowledge about filing of *Anganwadi* Appeal Case



No.61 of 2017. As such, she could not appear and defend appeal, in result, the District Magistrate-cum-Collector, Sitamarhi has passed order behind her back in which the selection of petitioner has been cancelled and order for fresh selection has been made following the due process of law.

6. Upon perusal of record, it transpires that counter affidavit has been filed, but no specific answer has been made by the State on the point of passing order in appeal without granting opportunity to petitioner. As such, in accordance with rule of pleading, this Court has no option but to accept the pleading of the petitioner that the order impugned dated 29.03.2019 in *Anganwadi* Appeal Case No.61 of 2017 has been passed in gross violation of natural justice.

7. As respondent no.7 has opted not to defend this case even after specific direction by this Hon'ble Court to file the counter affidavit and no counter affidavit has been filed by respondent no.7 in-spite of the notice. Hence, this Court has no option but to pass order directing that the order dated 29.03.2019 in *Anganwadi* Appeal Case No.61 of 2017 has been passed in gross violation of natural justice and accordingly, this order is hereby set aside.

8. District Magistrate-cum-Collector, Sitamarhi



(respondent no.4) is hereby directed to pass fresh order in *Anganwadi* Appeal Case No.61 of 2017 issuing notice to all the concerned demanding the defence within 90 days and then pass a reasoned order within fixed period of time not less than 90 days from the date of completion of appearance of the parties concerned. In the meantime, status as today shall be maintained.

9. Accordingly, the present writ petition stands disposed off.

(Dr. Anshuman, J)

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