

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15584 of 2021

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Bibi Juhi Khatoon @ Juhi Khatoon Wife of Imtiyaz Alam Resident of Village - Pairyak, Muslim Tola, Ward No. 05, Police Station- Amdanda (Sanokhar), District- Bhagalpur.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Social Welfare, Government of Bihar, Patna.
2. The Director, Directorate of I.C.D.S., Department of Social Welfare, Government of Bihar, Patna.
3. The Divisional Commissioner, Bhagalpur.
4. The District Magistrate, District- Bhagalpur.
5. The Deputy Development Commissioner, Bhagalpur.
6. The District Welfare Officer, Bhagalpur.
7. The Child Development Project Officer, Sanhoula, District- Bhagalpur.
8. The Panchayat Secretary, Madhopur Gram Panchayat Raj, Block- Sonhoula, District- Bhagalpur.
9. Bibi Mustari Wife of Minhaj Alam Daughter of Md. Harun Rasid Resident of Village - Pairiyak, Muslim tola, Ward No. 05, Police Station- Amdanda (Sanokhar), District- Bhagalpur.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Md. Nurul Hoda
For the Respondent/s : Mr.Smt. Kumari Amrita (Gp3)

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL JUDGMENT

Date : 18-01-2024

The present writ petition has been filed seeking the following reliefs:-

"1(i). For issuance of an appropriate writ/ writs in the nature of certiorari for quashing the impugned order dated 17.07.2021 (Annexure-7) passed in Miscellaneous (Anganbari) Revision Case No. 15/2020-21 passed by Respondent No.3 i.e. the learned Divisional Commissioner, Bhagalpur whereby and whereunder the order passed by



District Programme Officer dated 26.08.2020 has been cancelled and the appointment of the Respondent No.9 namely Bibi Mustari has been wrongly and illegally upheld and as a result of which the petitioner being entitled for her appointment/reinstatement on her post Anganbari Sewika has stood rejected, but, in view of the facts and circumstances of the case and law the impugned order is liable to be quashed and the petitioner is entitled to be reinstated on the post of the said Anganbari Sevika of Pairiyak, Muslim Tola, Kendra No.178, Ward No. 05. Police Station-Amdanda (Sanokhar), District-Bhagalpur.

(ii). Further, the concerned Respondents be directed to reinstate the petitioner forthwith on the aforesaid post of Anganbari Sewika with all consequential benefits with arrears of salary etc."

2. At this juncture, this Court would refer to a judgment rendered by a co-ordinate Bench of this Court in the case of ***Seema Kumari vs. The State of Bihar and others***, reported in ***(2015) SCC Online Pat 7267***, paragraphs no. 9 to 11 whereof, are reproduced herein below:-

"9. As noted above, the Anganbari Sevika is not a government servant and has no protection under Article 311(2) of the Constitution of India so as to envisage the concept of regular departmental proceeding. The petitioner was given a notice. She



was informed about the allegation against her. She had filed her show-cause reply which was considered by the District Programme officer and when the order went against her, she had also been given adequate opportunity by the appellate authority who, in fact, had himself got the matter verified by referring the matter to the Bihar Sanskrit Board.

10. In that view of the matter, this Court would not find any error in the impugned order of termination of the services of the petitioner when it is found that the petitioner had got appointment by producing a document in support of qualification which was found to be incorrect/forged.

11. Thus for the reasons indicated above, this application must fail and is, accordingly, dismissed.”

3. It would be apt to refer to yet another judgment rendered by the learned Division Bench of this Court in the case of ***Neetu Kumari v. The State of Bihar and others***, reported in ***2011 (4) PLJR 20***, paragraphs no. 4 and 5 whereof are reproduced herein below:-

“4. In our considered view, the post of Anganbari Sevika is not a post having security of tenure or protection under Article 311 of Constitution of



India. Considering the very nature of engagement which provides of honorarium, we are of the view that in case the appellant still feels aggrieved, she may approach the Civil Court for damages. There is nothing at stake in such a scheme other than honorarium. For such contractual engagements the relief of reinstatement is not appropriate and even if there is breach of the scheme or any other principle of law, the claim should ordinarily be permitted, if found good on merits, only for damages.

5. The appeal is dismissed.”

4. Considering the aforesaid aspect of the matter, the learned counsel for the petitioner seeks not to press the present writ petition, however, seeks liberty on behalf of the petitioner to avail such other alternative remedies as are otherwise available under the law including that of filing a suit before the learned Civil Court having competent jurisdiction. Liberty, so sought, is granted.
5. The writ petition stands dismissed.

(Mohit Kumar Shah, J)

Ajay/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	18.1.2024
Transmission Date	NA

