

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13994 of 2013

Nikhat Perween, wife of Shokat Mazahari, resident of village – Kocha Dhaman, P.O.- + P.S.- Kocha Dhaman, under Kocha Dhamari Block, District – Kishanganj.

... .. Petitioner/s

Versus

1. The State of Bihar
2. The Principal Secretary, Social Welfare Department, Government of Bihar, Patna.
3. The Director, I.C.D.S., Panth Bhawan, Baily Road, Patna.
4. The District Magistrate, Patna.
5. The District Programme Officer, Kishanganj.
6. The Child Development Project Officer, Kocha Dhaman, Block, Kishanganj.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Jawed Gaffar Khan, Advocate.
For the Respondent/s : Mr. Raghwanand, GA-11.

CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL ORDER

3 30-09-2024 Heard Mr. Jawed Gaffar Khan, learned counsel

 appearing on behalf of the petitioner and Mr. Raghwanand,

 learned GA-11 for the State.

 2. The petitioner, in paragraph no. 1 of the present

writ petition, has sought, *inter alia*, the following relief(s),

which is reproduced hereinafter:-

“(i) For quashing the order of Appeal no. 11/2011 dated 16.05.2013 passed by the District Magistrate, Kishanganj, whereunder the petitioner has been terminated from the post of Anganwari Sevika at Centre no.136, Kocha Dhaman Panchayat under Kocha Dhaman Block, Kishanganj by the respondent no.5.

(ii) further for direction commanding the respondents not to publish a fresh advertisement for appointment of the same post and same centre.

(iii) For any other relief/reliefs as your Lordships may deem fit and proper.”



3. Learned counsel appearing on behalf of the petitioner submits that for redressal of the grievance as prayed for in Para-1 of the writ petition, the petitioner seeks to avail appropriate remedy by filing suit before the competent civil court having jurisdiction 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 avail appropriate remedy before the competent civil court having jurisdiction.

(Purnendu Singh, J)

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