

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17041 of 2023

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Jaymati Kumari @ Jaymati Devi W/o Sanjeet Das, D/o Ravindra Das
Resident of Dhumatand, Bhangaha, P.S.-Bhangaha, District-West Champaran.

... .. Petitioner/s

Versus

1. The State of Bihar through the Director Health Department, State of Bihar, Patna.
2. The District Magistrate, Bettiah, West Champaran.
3. The Civil Surgeon Cum Secretary, District Health Committee, West Champaran, Bettiah.
4. The District Education Officer, West Champaran, Bettiah.
5. The In-Charge Medical Officer, Primary Health Centre, Mainatand, West Champaran, Bettiah.
6. The District Community Mobilizer, District Health Society, Bettiah, West Champaran,
7. The Headmaster, Kamal Prasad High School, Inarwa Bazar, Block Mainatand, District-West Champaran.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Bimlesh Kumar Pandey, Advocate
For the Respondent/s : Mr. Nagendra Pd. Yadav (Sc23)

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CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
ORAL ORDER

2 01-09-2025 Heard the learned counsel for the petitioner and the

learned counsel for the State.

2. This writ petition has been filed for issuance of writ/writs, order/orders, direction/directions for the following reliefs:

- i). For quashing the order dated 08.11.2022, passed by the Civil Surgeon-cum-Member Secretary, District Health Society, Bettiah, West Champaran (Respondent No. 3), contained in Memo No. 0145/1219 dated 11.11.2022, whereby and where under the*



petitioner was removed from the post of "Asha", (who was posted at Anganwadi Centre No. 30, village Bhangaha, Block Mainatand, District West Champaran) having cancelled her appointment, with the pretext that, the petitioner's Educational Certificate is wrong and she doesn't have required education qualification of class 8th since the School Leaving Certificate of the petitioner was reported to be mistakenly issued earlier by the Principal of Kamal Prasad High School, Inarwa Bazar, Mainatand (Respondent No. 7) and subsequently it was communicated by the Principal of Kamal Prasad High School, Inarwa Bazar, Mainatand that, the petitioner's attendance has not been marked in Attendance Register, though there is entry of her admission on 02.01.1993 in class 6th;

- ii). Also for directing and commanding the respondents to reinstate the petitioner to the post i.e., "Asha" and to give all the consequences benefit;*
- iii). Also for restraining the respondents from appointing any other person against the post from which the petitioner has illegally been removed.*

3. At the very outset, the learned counsel for the State has raised the maintainability issue of this writ petition relying on the judgment of ***Geeta Devi V/s The State of Bihar & Ors*** passed in C.W.J.C. No. 2661 of 2018 on 29.01.2024.

4. The learned counsel for the petitioner has relied upon a judgment of this Court in the case of ***Julee Kumari @ Julee Devi V/s The State of Bihar & Ors*** passed in C.W.J.C.



No. 20375 of 2011 on 14.02.2023.

5. The learned Single Judge who has delivered the judgment/order in the case of ***Geeta Devi V/s The State of Bihar & Ors (supra)*** has not considered the judgment of a co-ordinate Bench of this Court in the case of ***Julee Kumari @ Julee Devi V/s The State of Bihar & Ors (supra)*** and has also not considered the judgment of the Hon'ble Supreme Court in the case of ***Maniben Maganbhai Bhariya V/s District Development Officer, Dahod & Others, (2022) 16 SCC 343.***

6. In view of the judgment of the co-ordinate Bench of this Court in the case of ***Julee Kumari @ Julee Devi (supra)***, I am of the view that the present writ petition filed on behalf of the petitioner who was appointed as "Asha" is maintainable in this Court.

7. The petitioner is aggrieved by the order dated 08.11.2022, passed by the Civil Surgeon-cum-Member Secretary, District Health Society, Bettiah, West Champaran (Respondent No. 3), contained in Memo No. 0145/1219 dated 11.11.2022 by which the petitioner was removed from the post of "Asha". The short point involved in this case is that the petitioner has been terminated without issuance of any show cause and without giving any chance of hearing.



8. The learned counsel for the State has submitted that the petitioner was not required to be given any chance of hearing as the terms of the appointment are clear about the same that the petitioner may be terminated/removed at any point of time without giving any show cause notice.

9. I have heard and considered the submissions of the parties. The petitioner was not issued any show cause notice and the service of the petitioner has been terminated without issuance of any show cause notice and without hearing the petitioner.

10. The Hon'ble Supreme Court in the case of *Nisha Devi V/s State of Himachal Pradesh & Ors, (2014) 16 SCC 392* has reiterated that the principle of *audi alteram partem* admits of no exception, and demands to be adhered to in all circumstances. In other words, before arriving at any decision which has serious implications and consequences to any person, such person must be heard in his defence.

11. In view of the above discussions, this writ petition is allowed. The impugned order dated 08.11.2022, passed by the Civil Surgeon-cum-Member Secretary, District Health Society, Bettiah, West Champaran (Respondent No. 3) is hereby quashed.



12. The Respondent Authorities will allow the petitioner to join her earlier place of posting forthwith.

13. The Respondent Authorities may initiate a fresh action in accordance with law against the petitioner, if so advised.

(Sandeep Kumar, J)

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