

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2435 of 2020

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Kusum Devi, W/o Vinay Kumar Ojha, R/o Village and P.O.- Nimej, P.S.-
Brahmpur, Distt.- Buxar

... .. Petitioner/s

Versus

1. The State of Bihar through Chief Secretary, Govt. of Bihar, Secretariat, P.O.
and P.S.- Sachivalaya, Distt.- Patna
2. District Magistrate, P.O.- Buxar Town, P.S.- Adarsh Nagar, Distt.- Buxar
3. Medical Officer -in Charge, Primary Health Centre, Raghunathpur, P.O.-
Buxar Town, P.S.- Adarsh Nagar, Distt.- Buxar
4. Civil Surgeon-cum-Member Secretary, District Health Committee, P.O.-
Buxar Town, P.S.- Adarsh Nagar, Distt.- Buxar

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Gyanendra Kumar Shukla, Advocate
For the Respondent/s : Mr. Anil Kumar Verma, Advocate

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CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

6 24-02-2025 Heard Mr. Gyanendra Kumar Shukla, learned

Advocate for the petitioner and Mr. Anil Kumar Verma, learned

Advocate for the State.

2. The petitioner is aggrieved with the order contained
in letter no. 331 dated 10.10.2017 whereby the services of the
petitioner as ASHA Facilitator came to be terminated by the
respondent authority.

3. The issue posed before this Court is in narrow
compass as to whether the petitioner who was holding the post
of ASHA Facilitator at the Primary Health Center, Brahmpur,
Raghunathpur and contested the election for the post of Up-Mukhiya



of Nimej Panchayat in the light of the letter issued by the State Election Commission, Bihar dated 27.02.2016 (Annexure 10A) can her services be dispensed with by the authority. It is further contended that the afore-noted letter issued by the State Election Commission has further been strengthen by the Block Development Officer, Brahmpur who sought a clarification from the State Election Commission that once the ASHA worker, if contested the election, whether or not she could simultaneously hold the post of Mukhiya and can continue the post of ASHA worker.

4. Mr. Shukla further placed reliance upon a decision of the learned coordinate Bench of this Court in Veena Devi vs. State Election Commission (C.W.J.C. No. 13545 of 2013), which came to be disposed off vide order dated 15.05.2014 by observing that since ASHA worker was not holding an office of profit, thus she could not have been debarred from contesting election.

5. Referring to the aforesaid facts, learned Advocate thus contended that either the State Government or the State Election Commission come out with a definite guidelines or the decision as to whether the continuation of the ASHA worker even after her being elected on the post of Mukhiya/ Up-



Mukhiya is bad, illegal and impermissible, but in the case in hand, the same has not been done.

6. On the other hand, learned Advocate for the State dispelling the aforementioned submission of the petitioner has contended that the guidelines which governs the selection of the ASHA worker/ Facilitator made it clear that any public representative (Mukhiya), member of Panchayat Samiti/ward member, member of district council, etc., as well any person holding the public distribution system and the relatives of Governments servants, are not entitled to be selected as ASHA worker.

7. It is further contended that the petitioner was not only ASHA worker, but was holding the post of ASHA Facilitator, for which she had been receiving incentives and honorarium. The petitioner is also served with notices to vacate one post out of the two, but she failed to leave the post, leading to issuance of the impugned order dispensing with the services of the petitioner as ASHA Facilitator.

8. The impugned order of termination is in accordance with the guidelines issued by the General Administrative Department, is the contention of the learned Advocate for the State.



9. At this juncture, learned Advocate for the petitioner contended that since the issue which was required to be decided by the competent authority, the same has not been done as yet. Hence the petitioner seeks liberty to approach before the District Magistrate to get the position cleared and in case she finds any favorable order, then she may be allowed to approach this Court.

10. In view of the submissions advanced, the present writ petition stands disposed off with the liberty aforesaid.

(Harish Kumar, J)

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