

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9007 of 2018

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Kiran Devi wife of Birendra Kumar @ Birendra Ram

... .. Petitioner/s

Versus

1. The State of Bihar.
2. The Principal Secretary, Department of Social Welfare, Government of Bihar,
3. The Director, ICDS, Government of Bihar,
4. The Commissioner, Patna Division,
5. The District Magistrate,
6. The District Public Grievances Redressal Officer,
7. The District Programme Officer, ICDS,
8. The Child Development Project Officer,
9. Suman Devi, W/o Santosh Kumar Singh
10. Lalti Devi, W/o Baidya Nath Singh

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Rabindra Kumar Choubey, Adv, Ms. Minu Kumari, Adv.
For Respondent/s/State	:	Mr. Sunil Kumar Mandal, SC-3, Mr. Bipin Kumar, AC to SC-3
For Respondent no. 9	:	Mr. Ritwaj Raman, Adv., Mrs. Shashi Priya, Adv. Ms. Pankhuri, Adv.

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CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI

ORAL JUDGMENT

Date : 09-12-2024



The petitioner was appointed as Anganwari Supervisor in Jagdishpur Block in the year 2013 following the provision of recruitment as described in Anganbari Niyojan Margdarshika, 2010. As per the aforesaid provision, it is not in dispute that the petitioner's appointment was contractual in nature.

2. It is the case of the petitioner that the State Government took a decision of creation of Anganbari Center No. 206 in Ward No. 8 of village- Pilapur in Jagdishpur Block under Bhojpur District. In pursuance of such Government decision, it was necessary for preparation of a mapping report under the guideline issued by the Director, I.C.D.S., on the basis of the voter list of Gram Panchayat, the mapping report was to be prepared visiting the houses in the village taking into consideration the number of voters etc. The petitioner was allegedly informed by the C.D.P.O. to collect information of voters by visiting the houses of the said village, as per Panchayat Voter List. The petitioner with the help of Anganbari Sevika of Ward No.-7, namely Lilawati Devi and the Ward member from Ward No.-8 namely, Pappu Kumar visited each household, situated within the mapping area and submitted mapping report in the Office of C.D.P.O., Jagdishpur. The said mapping report was published in the Office of C.D.P.O., Jagdishpur and other public places inviting objection thereon, but



no objection was raised by any of the villagers in respect of the said mapping. It is further contended by the petitioner that at the time of submission of mapping report, one Smt. Shabnam Moin used to work as C.D.P.O., Jagdishpur and the mapping report prepared by the petitioner was accepted by her. The said report was in turn transmitted to the Office of the District Welfare Officer, Bhojpur and the District Programme Officer, I.C.D.S. also approved the mapping report and directed the C.D.P.O. to undertake the process of selection of Anganbari Sevika at different centres including Centre No. 206 in Ward No.8 of village Pilapur. Subsequently, an Advertisement was published by the Additional Collector-cum-Senior In-charge Officer, Bhojpur, bearing Advertisement No. 01 of 2016. The said Advertisement was published in the Newspaper on 22nd September, 2016 inviting application for the post of Anganbari Sevika/ Anganbari Sahayika, in different parts of Bhojpur District including Anganbari Centre No.-206, situated in Ward No.-8 of village Pilapur in Jagdishpur. The candidates submitted their application within the stipulated date mentioned in the Advertisement. In pursuance of such Advertisement, total 14 applications on the post of Anganbari Sevika was received and on the basis of merit, one Lalti Devi obtaining 82.86% topped merit list. Against such selection of the



said Lalita Kumari, no objection was raised during the stipulated period of time as mentioned in the Advertisement. Subsequently, Aam Sabha was convened on 12th November, 2016 for selection of Anganbari Sevika/ Anganbari Sahayika, in Ward No.8. In the Aam Sabha, in presence of the responsible Officers and the representatives of people, the said Lalti Devi was selected. Only after her selection, some villagers raised objection against the recruitment of Lalti Devi, on the ground that her academic testimonials were forged. The C.D.P.O., Jagdishpur however, was not ready to accept such objection and decided to appoint Lalti Devi as Anganbari Sevika.

3. It is contended on behalf of the petitioner that the Recruitment Rules specifically provides for filing Appeal against selection of Anganbari Sevika/ Anganbari Sahayika before the District Programme Officer and thereafter after hearing the parties, order has to be passed by the District Programme Officer. No complaint was filed against the petitioner before the District Programme Officer, Bhojpur, as per the above mentioned Rule of 2010.

4. Further case of the petitioner is that subsequently one Suman Devi, who was one of the candidates in the said selection process, for the post of Anganbari Sevika, lodged a complaint



before the Bihar Public Grievance Redressal Officer, Bhojpur, alleging, inter alia, that the Mark-sheet of Lalti Devi, who was selected as Anganbari Sevika, was false. It is further mentioned by the petitioner that in the meeting of Aam Sabha, the Child Development Project Officer and the Circle Officer, Jagdishpur assured the Members of the Aam Sabha, if the certificate of Lalti Devi was found to be forged, she will be removed and in her place a second candidate would be appointed.

5. It is contended by the petitioner that though the Public Grievance Officer did not have any jurisdiction to consider the dispute in respect of appointment of Anganbari Sevika and secondly, the petitioner was not a party to the complaint lodged by the said Suman Devi against Lalti Devi, on the basis of a report submitted by the Public Grievance Officer, the District Programme Officer, directed the petitioner to submit a show cause. The petitioner gave reply to the show cause. However, the petitioner does not know whether the said show cause was considered or not, because no departmental proceeding was initiated against her. Without initiation of departmental proceeding and without giving any opportunity of being heard, she was proposed to be terminated by the concerned authority and on the basis of the said proposal, the District Magistrate passed the impugned order, terminating the



petitioner from the said post. The petitioner filed an Appeal before the Divisional Commissioner, which was also dismissed by affirming the order of the District Magistrate and the termination order was maintained. Being aggrieved, the petitioner has filed the instant writ petition.

6. Learned Advocate on behalf of the State respondents, on the other hand, draws my attention to the relevant provisions of Pervekshika Niyojan Margdarshika, 2010, which was notified by the Social Welfare Department, Government of Bihar for appointment of Anganbari Supervisor/ Anganbari Sahayika/ Anganbari Sevika exclusively on contractual basis. As the petitioner is not a member of the State service, though, she is entitled to get salary at the rate fixed by the State Government, it is contended on behalf of the respondents that the instant writ petition is not maintainable.

7. Learned counsel for the State next refers to Rule XIV of the said Margdarshika which relates to the provision of termination. Rule XIV runs thus:-

“ (xiv) अनुबंध की समाप्ति

(Termination):-

(क) इस प्रकार का नियोजन, संविदा अवधि समाप्ति के पूर्व, उभय पक्षों द्वारा एक माह की पूर्व सूचना देकर समाप्त किया जा सकेगा।



(ख) महिला पर्यवेक्षिका द्वारा अपने कर्तव्यों के संतोषप्रद निर्वहन नहीं किये जाने, उनके द्वारा अनियमितता बरते जाने, अनाधिकृत अनुपस्थित रहने, अपराधिक घटना में शामिल होने अथवा एकरारनामें की शर्तों का उल्लंघन करने की स्थिति में उनसे स्पष्टीकरण पूछकर संबंधित जिला पदाधिकारी अनुबंध मुक्त करने का आदेश पारित करेंगे। इनके आदेश के विरुद्ध अपील संबंधित प्रमंडलीय आयुक्त के समक्ष एक माह के अन्दर की जा सकेगी। प्रमंडलीय आयुक्त के आदेश के विरुद्ध कोई अपील नहीं की जा सकेंगी।

(ग) उपरोक्त कंडिका (ख) में उल्लिखित आरोपों के आधार पर संबंधित साक्ष्यों से संतुष्ट हो कर स्पष्टीकरण प्राप्त करने के पश्चात संबंधित प्रमंडलीय आयुक्त महिला पर्यवेक्षिका का अनुबंध समाप्त करने का आदेश पारित करेंगे।

(घ) उपरोक्त प्राधिकारों के अतिरिक्त उपरोक्त कंडिका (ख) में उल्लेखित बिन्दुओं पर जांचोपरान्त महिला पर्यवेक्षिका को सेवा मुक्त करने का अधिकार सरकार में भी सुरक्षित रहेगा।”

8. Learned Advocate on behalf of the respondents, specially refers to Sub-Clause (Kha) of Rule XIV, where it is stated that if the Anganbari Supervisor fails to perform his duties satisfactorily or she is unauthorizedly absent or commits some offence, or violates any Clause of agreement of service, she would be directed to show cause and on the basis of the reply of the show cause, the District Magistrate can terminate his contract. Thus, it is contended by the learned Advocate on behalf of the respondents



that no fulfilled departmental enquiry is necessary for termination of Anganbari Supervisor. It is not in dispute that show cause was obtained from the petitioner. The concerned authority did not find the show cause as satisfactory and the contract of service was terminated.

9. The writ petition does not have any jurisdiction to entertain the instant writ petition.

10. Having heard the learned counsel for the parties and on perusal of the entire materials on record, it appears to me that the petitioner was terminated on the basis of a complaint filed by one Suman Devi, who was a candidate in the selection process of Anganbari Sahayika. Selection of Anganbari Sahayika was made by the C.D.P.O. in Aam Sabha meeting, where the local Panchayat Member, other Officers of the concerned Department and villagers are present. Anganbari Supervisor does not have any role except her presence in Aam Sabha meeting. She does not have any authority to deliberate, to cast her vote, or to represent her own contention. Entire selection process was done by the Aam Sabha. Lalti Devi, who was selected, was appointed by Aam Sabha not by the Anganbari Supervisor. There is no allegation in the complaint of Suman Devi that mapping was not done by the Anganbari Sahayika i.e. the petitioner, prior to Aam Sabha meeting properly.



Therefore, this Court fails to comprehend, as to how, the petitioner namely Kiran Devi has been made a scapegoat in the entire process, where the allegation of Suman Devi was against the appointment of Anganbari Sahayika namely, Lalti Devi.

11. Furthermore, I am in conformity with the learned counsel for the petitioner that no proceeding against any Anganbari Sevika/ Anganbari Sahayika/ Anganbari Supervisor can be instituted on the basis of a complaint submitted by the District Public Grievance Officer. In the instant case, the procedure commences from a wrong direction.

12. For the reasons stated above, I am not in a position to accept the impugned order passed by the District Magistrate, Bhojpur and affirmed by the Divisional Commissioner, Patna.

13. Both the orders dated 29.05.2017 and 16.01.2018 are quashed and set aside.

14. The petitioner be reinstated with all consequently benefits forthwith.

15. However, if there is any grievance against the petitioner, received by the authority, the authority is at liberty to initiate fresh proceeding against the petitioner, under Clause-XIV of the above mentioned Margdarshika through the competent Officer having control of the Supervisor.



16. With the above order, the instant writ petition is disposed of.

(Bibek Chaudhuri, J)

pravinkumar/-

AFR/NAFR	NAFR
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Uploading Date	
Transmission Date	

