
(2008) 08 PAT CK 0111
In the Patna High Court

Archana Devi and Others

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

Date of Decision : 06-08-2008

Acts Referred:

Constitution of India, 1950 — Article 311

Citation : (2009) 2 PLJR 206 : (2008) 4 PLJR 377

Hon'ble Judges : Navin Sinha, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Navin Sinha, J.—Heard learned Counsel for the petitioners and the State.

2. The petitioners are aggrieved by the termination of their services from the post of Anganbari Sevika by order dated 12.11.2007.

3. It is the case of the petitioners that under the Rules and guidelines framed for appointment and service conditions of Anganbari Sevika, it is the District Magistrate alone, who is competent to take action for such termination after granting an opportunity for hearing to the concerned individual. In the present case, the order has been passed by the District Magistrate without affording opportunity to the petitioners at the behest of the Director, ICDS.

4. Clause II (kha) vests power in the Director, ICDS to also order termination after enquiry when formal orders to that effect shall be issued by the District Magistrate. Statement has specifically been made in paragraph 20 of the writ application that the order has been passed in violation of the principles of natural justice. Reading the impugned order and the pleadings in the writ application together, this Court accepts the statement of the petitioners in that regard. Learned Counsel for the State also in that view of the matter found it difficult to oppose the statement of violation of principles of natural justice on the record as it stands.

5. The clause undoubtedly does not visualize a full fledged enquiry but it necessarily postulates compliance with the rudimentary principles of natural justice for issuance of a show cause and consideration of the same.

6. A Division Bench of this Court in a judgment reported in Smt. Sajjan Devi and Others Vs. State of Bihar and Others, even while holding that Anganbari Sevika does not hold a civil post entitling protection of Article 311 of the Constitution has held that nonetheless their engagement/services under the scheme can be terminated in terms thereof after following the procedure concerning the requirement of principles of natural justice.

7. In the result, the impugned order dated 12.11.2007 is quashed. The matter is remanded to the Director, ICDS to pass fresh orders in accordance with law after issuance of show cause to the petitioners. Let such fresh determination be done within a maximum period of two months from the date of receipt and/or production of a copy of this order.

8. The writ applications stand allowed.