
(2013) 08 PAT CK 0005
In the Patna High Court
Case No : CWJC No. 20284 of 2010

Meena Jha and Another

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

Date of Decision : 26-08-2013

Acts Referred:

Citation : (2014) 2 PLJR 114

Hon'ble Judges : Navaniti Prasad Singh, J

Bench : Single Bench

Judgement

Navaniti Prasad Singh, J.—The two petitioners had been selected and appointed as Angan Bari Sevikas for Centres Nos. 110 and 111 of Gram Panchayat Raj Khairi Banka (North) of Block-Bisfi, District-Madhubani respectively. There was a vigilance inspection. The report was submitted to the District Programme Officer. The District Programme Officer issued notices to the two petitioners for cancellation of their appointment in view of the defections mentioned in the vigilance report. Petitioners showed toss (sic--cause) and having considered the same, by orders as contained in Annexures-4 and 4/1 both dated 15.6.2010, in so far as the petitioners are concerned, the proceedings for cancellation of their appointment were dropped. Thereafter, it appears that the Deputy Secretary, Social Welfare Department, Government of Bihar vide Memo No. 5093 dated 9.11.2010 directed the Collector-cum-District Magistrate to give effect the orders of the Principal Secretary of the Department of Social Welfare cancelling the appointment of the petitioners. The District Magistrate-cum-Collector, by the impugned order, as contained in Annexures-5 and 5/1, cancelled their appointment and communicated the same to the CDPO and the CDPO then cancelled the appointment of the petitioners vide Annexures-6 and 6/1. Thus, Annexures-5 and 6 are under challenge. Learned counsel for the petitioners submits that the appointment authority, so far as petitioners are concerned, is the District Programme Officer and he is the disciplinary authority as well. The District Programme Officer had exercised his jurisdiction and exonerated the petitioners. Once that was done then no further action could be taken. It is

further submitted that the Principal Secretary of Department of Social Welfare cannot take any action in this regard for two reasons. Firstly, he is not appointing authority and secondly, he cannot take action without hearing the parties. On both these counts, the action of Principal Secretary, Department of Social Welfare is not sustainable.

2. Having considered the matter and perused the counter affidavit where there is no denial of these basic facts, I have no option but to allow this writ petition.

3. Once the statutory authority, who had the power to cancel the appointment, having heard the parties and exonerated them, then no further action could be taken on basis of the vigilance inspection report. The Principal Secretary of the Department has no authority in the matter. If at all, he could have forwarded the matter alongwith the vigilance report to the proper authority that is the District Programme Officer for dealing in accordance with law. He could not have usurped jurisdiction in the matter.

4. Thus, Annexures-5, 5/1, 6 and 6/1 cannot be sustained. All of them are set aside. The writ petition is allowed.

5. It will be deemed that the petitioners have been continuing to work as Angan Bari Sevikas without any interruption.

6. If the centres of the petitioners have been allotted or attached with some other centre, they would be restored to the petitioners forthwith. Order is being passed on basis that the vacancies caused as a consequence of cancellation of petitioners' appointment have not been filled.