

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.14412 of 2019**

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Kumari Reeta @ Reeta Kumari, Daughter of Late Ram Kailash Sinha, Wife of Anil Kumar Singh, resident of Village- Raja Bazar, Indrapuri, P.S.- Tilauthu, District- Rohtas.

... .. Petitioner

Versus

1. The State of Bihar.
2. The Principal Secretary, Social Welfare Department, Govt. of Bihar, Patna.
3. The Director, Integrated Child Development Scheme, Bihar, Patna.
4. The Joint Director (Headquarters), Social Welfare Department, Govt. of Bihar, Patna.

... .. Respondents

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**Appearance :**

For the Petitioner	:	Mr. Bindhyachal Singh, Advocate Mr. Prashant Sinha, Advocate
For the Respondents	:	Mr. Gyan Prakash Ojha, GA-7 Mr. Gopal, AC to GA-7

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**CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH**  
**ORAL JUDGMENT**

**Date : 15-10-2019**

The petitioner is a Child Development Project Officer (CDPO) under the Social Welfare Department of the Government of Bihar. She was posted at Jagdishpur in the district of Bhojpur, at the relevant point of time, when an association of Anganbari Sevikas under the district had allegedly held a meeting and made certain complaints to the District Magistrate, Bhojpur, alleging that the Head Clerk in the Office of the CDPO was asking them to pay



illegal money of Rs.3,000.00 per centre, else action would be taken against them.

2. Allegedly, when the said Anganbari Sevikas approached the petitioner, she expressed her annoyance over their grievance and told them that though she did not need any money, she would ensure that if the beneficiaries were not provided the services, which they were legally entitled to, to their full satisfaction, she would take strict action, for their removal. The complaint has been brought on record by way of Annexure-1 to the writ application. A preliminary enquiry appears to have been held in the light of allegation made in the complaint, after issuing notice to the petitioner on 23.03.2017. The petitioner had completely denied the allegation made in the complaint petition in her reply submitted on 24.03.2017.

3. It appears that during the preliminary enquiry, 71 Anganbari Sevikas jointly stated before the Additional Collector, Bhojpur, to the effect that their signatures were fraudulently obtained on the complaint petition filed against the petitioner. The Additional Collector submitted his report on 24.03.2017 to the District Magistrate, Bhojpur, Ara, and noticing the statement of 71 Anganbari Sevikas, contradicting the allegation, opined that it was 'practically difficult' to come to a definite conclusion in respect of



allegations against the petitioner. However, considering the nature of allegation made by the complainant Anganbari Sevikas, he recorded his conclusion that the allegation against the petitioner appeared to be *prima facie* correct.

4. After the said report of preliminary enquiry was submitted on 24.03.2017, a decision was taken to initiate departmental proceeding against the petitioner. Charge-sheet was accordingly issued in *Praptra 'Ka'*, a copy of which has been brought on record by way of annexure to the writ application. It was alleged against the petitioner, in the light of complaint made by 56 Anganbari Sevikas dated 15.12.2016 that she was demanding illegal money of Rs.3,000.00. The memorandum of charge and the imputation of misconduct, as mentioned in *Prapatra 'Ka'*, read as under :

क्र०	आरोप	आरोप का अभिकथन	साक्ष्य
1.	बाल विकास परियोजना, जगदीशपुर के 56 आँगनबाड़ी सेविकाओं द्वारा श्रीमति कुमारी रीता, बाल विकास परियोजना पदाधिकारी, जगदीशपुर के विरुद्ध मानसिक एवं आर्थिक प्रताड़न के संबंध में।	बाल विकास परियोजना कार्यालय, जगदीशपुर के 56 आँगनबाड़ी सेविकाओं से प्राप्त आवेदन पत्र के अनुसार श्रीमती कुमारी रीता, बाल विकास परियोजना पदाधिकारी, जगदीशपुर के द्वारा दिनांक 15.12.2016 को आँगनबाड़ी सेविकाओं से प्रतिमाह प्रति आँगनबाड़ी केन्द्र 3000/- रूपया के अवैध राशि की माँग की गई। जिसका विस्तृत उल्लेख आँगनबाड़ी सेविकाओं से प्राप्त परिवाद पत्र में अंकित है।	1. श्रीमती पुनम देवी, आँगनबाड़ी सेविका के साथ अन्य 56 सेविकाओं का सामुहिक आवेदन पत्र हस्ताक्षर सहित संलग्न। 2. अपर समाहर्ता, भोजपुर का जाँच प्रतिवेदन पत्रांक 92/गो0 दिनांक 24.03.2017।

5. In support of the charge, the said complaint dated 15.12.2016 and the above-noted report of the Additional Collector



dated 24.03.2017 were mentioned in the list of documents. An Enquiry Officer and a Presenting Officer were appointed. The petitioner had submitted a written statement of defence, denying altogether any allegation of demand of any illegal money. She rather pleaded that it was because of the strict action, which she had intended to take against erring Anganbari Sevikas that false allegation was made against her.

6. The Enquiry Officer submitted his report on 22.09.2017. From the report, it appears that 27.07.2017 was the only date fixed for the departmental proceeding. No evidence other than the documents, which were mentioned in the charge-sheet in *Praptra 'Ka'* was adduced in the departmental enquiry. The Enquiry Officer, mainly relying on the report of the Additional Collector in the preliminary enquiry, held the charge against the petitioner to have been proved. Accepting the report of the Enquiry Officer, a decision of imposition of punishment of reduction to lowest scale in the time scale of pay was taken and accordingly after seeking concurrence of the Bihar Public Service Commission, the said punishment has been imposed on the petitioner with the issuance of notification by the Department of Social Welfare, Government of Bihar, dated 06.02.2019 (Annexure-17). The petitioner had filed an application for review



of the order, which too has been dismissed and communicated to her through letter 1884 dated 28.03.2019 issued under the signature of the Joint Director (Headquarters), Social Welfare Department, Government of Bihar. The order, whereby the said punishment has been imposed, and the order, whereby the petitioner's review application has been rejected, are under challenge in the present writ application.

7. I have heard Mr. Bindhyachal Singh, learned counsel appearing on behalf of the petitioner, and Mr. Gyan Prakash Ojha, learned Government Advocate No.7 appearing on behalf of the respondent State of Bihar.

8. It has been argued on behalf of the petitioner that finding, recorded by the Enquiry Officer, holding the petitioner guilty of the charge, is perverse inasmuch as the said finding is based on no evidence at all. He accordingly submits that the decision, based on such enquiry, is vitiated and deserves interference by this Court exercising jurisdiction under Article 226 of the Constitution of India. Referring to the enquiry report, he has contended that even the Presenting Officer found it difficult to support the allegation made against the petitioner in the charge-sheet as can be noticed from the enquiry report. None of the signatories of the complaint petition dated 20.12.2016 were



produced before the Enquiry Officer in support of the charge. Non-examination of such witnesses in the departmental enquiry, considering the nature of the allegation, has rendered the entire exercise of imposition of punishment illegal, he contends.

9. Mr. Gyan Prakash Ojha, learned Government Advocate No.7 appearing on behalf of the respondent State of Bihar, on the other hand, has submitted that there were two documents, referred to in the charge-sheet itself, on the basis of which the department intended to prove the charge in the departmental proceeding. He submits that since the said documents could not be denied by the petitioner, non-examination of witnesses during the departmental enquiry would not vitiate the findings of the Enquiry Officer. He has relied on a decision of this Court, in case of *Ajoy Kumar Vs. The State of Bihar*, reported in **2011(3) PLJR 430**, with reference to paragraphs 19, 20 and 21, to contend that if the allegation is not specifically denied, the same are not required to be specifically proved by the Department in a departmental enquiry by adducing evidence. He has submitted that there is no infirmity in the finding recorded by the Enquiry Officer and considering the seriousness of the allegation against the petitioner, the punishment imposed on her cannot be said to be disproportionate to the proved misconduct.



**10.** I have carefully perused the complaint filed by the Anganbari Sevikas, which has been brought on record by way of Annexure-1 to the writ application. The said complaint is the foundation of initiation of departmental proceeding. On reading of the complaint petition, I find that it was not the allegation of complainant's that the petitioner had demanded in illegal money. It was rather alleged that Head Clerk of the Office had demanded money possibly at the instance of the petitioner.

**11.** Be that as it may, as has been noticed above, a preliminary enquiry was held by the Additional Collector, who had submitted his report on 24.03.2017 itself. He was not definite in his finding, rather he had found it difficult to record any concrete finding on the allegation made against the petitioner, particularly in the light of the fact that 71 of the Anganbari Sevikas had denied any such allegation ever made by them against the petitioner. The persons, who had complained against the petitioner, were not cited as witnesses at the time of issuance of charge-sheet. They were not produced as witnesses during the departmental enquiry in support of the allegation made by them. It is evident that apart from the complaint petition dated 20.12.2016 and report of the Additional Collector in the preliminary enquiry, dated 24.03.2017, that there was absolutely no material before the Enquiry Officer. From the



report of Enquiry Officer itself, it appears that the Presenting Officer had also pointed out that signatories of some of the Anganbari Sevikas were fraudulently obtained, which became part of the complaint petition against the petitioner. Even he did not fully support the charge against the petitioner, as could be seen from the enquiry report of the Enquiry Officer.

**12.** In the aforesaid background, I find substance in the submission advanced on behalf of the petitioner that the finding of the Enquiry Officer, holding the petitioner guilty of the charge framed against her, is perverse and, therefore, any decision based on such finding would require interference by this Court.

**13.** Accordingly, the impugned order dated 06.02.2019, imposing punishment on the petitioner is hereby quashed. The subsequent impugned order dated 28.03.2019 stands consequently quashed. Consequence of quashing of the impugned orders shall follow. The petitioner shall be entitled for all consequential benefits.

**14.** Considering the casual and cavalier manner, in which the enquiry was conducted and punishment has been imposed on the petitioner, I consider it a fit case for imposition of cost, which is assessed at Rs.10,000.00 (Ten thousand).





**15.** This application is accordingly allowed. The cost as quantified will be paid to the petitioner within two months from the date of receipt/production of a copy of this order.

**(Chakradhari Sharan Singh, J)**

Pawan/-

<b>AFR/NAFR</b>	NAFR
<b>CAV DATE</b>	N/A
<b>Uploading Date</b>	25.10.2019
<b>Transmission Date</b>	N/A

