

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Jurisdiction Case No.168 of 2015

In

Civil Writ Jurisdiction Case No. 6831 of 2014

- =====
1. Savitri Devi wife of Pintu Kumar, resident of village - Naudiha, P.S. Cherki, District - Gaya
 2. Lalti Kumari W/o Lalan Yadav, resident of village - Parsa Kala, P.S. Cherki, District - Gaya

.... Petitioner/s

Versus

1. The State of Bihar, through the Chief Secretary, Govt. of Bihar, Patna
2. The Director, Social Welfare Development, Govt. of Bihar, Patna
3. The Commissioner, Magadh Division, Gaya
4. The District Magistrate, Gaya
5. The District Programme Officer, Gaya
6. The C.D.P.O. Boddha Gaya, Gaya

.... Opp. Party/s

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Appearance :

For the Petitioner/s : Mr. Dhananjay Mishra

For the Opp. Party/s : None.

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA
ORAL ORDER

3 18-03-2015

Re.: M. J. C. No.168 of 2015

Heard learned counsel appearing on behalf of the petitioners. However, despite repeated calls, none appears on behalf of the opposite parties, though the name of the learned State counsel is printed in the daily cause list.

The present application has been filed for restoration of C.W.J.C. No. 6831 of 2014, which stood dismissed for want of prosecution by an order dated 19.12.2014 by this Bench.

For the reasons disclosed in the present application, prayer for restoration is allowed and C.W.J.C. No. 6831 of 2014 is restored to its original file.

The present M.J.C. application is finally disposed of.

Re: C.W.J.C. No. 6831 of 2014

The petitioners have filed the present writ petition under

Article 226 of the Constitution of India assailing the validity and correctness of the order dated 24.06.2013 (Annexure-3) passed by the respondent District Programme Officer, Gaya, whereby selection of the petitioners on the post of Aganwari Sevika for the centre in question has been cancelled.

Indisputably, under the existing guidelines issued by the State Government the orders passed by the District Programme Officer with respect to Aganwari centres are appealable before the prescribed appellate authority. Apparently, the petitioners have approached this Court in the present proceeding filed under Article 226 of the Constitution of India without exhausting the alternative remedy of appeal available to them.

In above view of the matter, the present writ petition is dismissed with a liberty to the petitioners to file an appeal before the prescribed appellate authority against the order dated 24.06.2013 (Annexure-3) passed by the respondent District Programme Officer, Gaya, raising all the issues, which have been raised in the present writ petition.

If such an appeal is filed on behalf of the petitioners within a period of three weeks from today, after impleading all the necessary parties, then the appellate authority shall consider and decide the same on its own merit strictly in accordance with law, after giving an opportunity of hearing to all concerned, without being prejudiced/ influenced by rejection of the present writ petition.

It is further clarified that if the appeal filed by the petitioners is found to have become barred by limitation, and if any petition is filed for condonation of such delay then the appellate authority shall take into consideration that on a bonafide

legal advise the present writ petition was filed on behalf of the petitioners on 07.04.2014 and that remained pending before this Court till date and only thereafter appropriate order shall be passed in accordance with law in the appeal preferred by the petitioners.

The writ petition stands finally disposed of with the observations and directions made above. It is expected that the appeal filed by the petitioners shall be heard and decided expeditiously.

(Birendra Prasad Verma, J)

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