

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1534 of 2014

IN

Civil Writ Jurisdiction Case No. 4435 of 2011

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1. The State of Bihar through the Principal Secretary, Department of Social Welfare, Govt. of Bihar, New Secretariat, Patna.
2. The Director, Department of Social Welfare, Govt. of Bihar, New Secretariat, Patna.
3. The Commissioner, Saran Division at Chapra.
4. The Deputy Director, Welfare Department, Saran Division, Chapra.
5. The District Magistrate, Siwan.
6. The Child Development Project Officer (CDPO), Barharia, Block-Barharia, District-Siwan.

.... Respondents/Appellants

Versus

1. Lalita Kumari, wife of Binod Kumar Prasad, D/o Sri Ram Chandra Mahto, resident of Village-Sawana, Police Station-Barharia, District-Siwan.

.... Respondent 1st Set/Petitioner

2. The Panchayat Secretary, Gram Panchayat Raj, Padrouna Khurd, Block-Barharia, Police Station-Barharia, District-Siwan.
3. The Mukhiya, Gram Panchayat Raj, Padrouna Khurd, Block-Barharia, Police Station-Barharia, District-Siwan.

.... Respondent 2nd Set

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Appearance :

For the Appellant/s : Mr. Vivek Anand Amrithesh, AC to GP-21
Mr. Nishant Kumar Jha, Adv.

For the Respondent No.3 : Mr. Ranjeet Kumar Pandey, Adv.

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CORAM: HONOURABLE THE ACTING CHIEF JUSTICE

And

HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH)

Date: 24-09-2015

The State of Bihar and its officials, being aggrieved by an order, dated 12.09.2013, passed in C.W.J.C. No.4435 of 2011, have preferred the present appeal under Clause 10 of the Letters Patent of the High Court.

2. The appeal is barred by limitation an application, vide I.A. No.8652 of 2014, has been filed for condonation of delay in preferring the appeal. After having gone through the petition, seeking condonation of delay and having considered the contents made therein, we are satisfied, in the facts and circumstances, that the appellants have been able to show that there existed sufficient cause which prevented them from preferring the appeal within the time prescribed and, accordingly, in the interest of justice, the delay in preferring the appeal is condoned.

3. I.A. No.8652 of 2014 stands allowed.

4. We have heard Mr. Vivek Anand Amritesh, learned AC to GP-21, appearing on behalf of the appellants, and Mr. Ranjeet Kumar Pandey, learned counsel, appearing

on behalf of the respondent No.3.

5. We have carefully perused the order under appeal, passed by the learned Single Judge, whereby he has set aside the order of the Divisional Commissioner, Saran Division, at Chapra, dated 04.10.2010, by which appointment of respondent No.1, as Angan Bari Sevika for the Angan Bari Center, Sawna-Sathana (Code No.253) under Gram Panchayat Raj, Padrauna, in Siwan district, had been cancelled; and has, thus, allowed the writ application.

6. From the order under appeal, we find that the said order passed by the Divisional Commissioner, Saran Division, at Chapra, has been set aside on two grounds, namely the power to cancel the appointment, under the guidelines governing engagement of Angan Bari Sevika, vests in the Collector and the Divisional Commissioner is the appellate authority and, secondly, the learned Single Judge has held that the Divisional Commissioner passed the order, cancelling the appointment of respondent No.1 without giving her any opportunity of being heard.

7. It has not been disputed before us in terms of the guidelines that the power of cancelling appointment vests in the Collector of the concerned district, nor it is in dispute that before issuance of the order, cancelling the appointment of the respondent No.1, no show cause notice

was given to her.

8. Learned counsel, appearing on behalf of the appellants, however, has submitted that the writ-petitioner-respondent No.1 had fraudulently secured her engagement as Angan Bari Sevika and her appointment was bad because of incorrect mapping.

9. If in the opinion of the competent authority, there existed any ground for cancellation of appointment of respondent No.1, as Angan Bari Sevika, the competent authority could have proceeded in the matter for the purpose of cancellation of her appointment by giving her a reasonable opportunity of being heard complying with the principles of natural justice; but this was not done.

10. Both the reasons assigned by the learned Single Judge for setting aside the order of cancellation of engagement of petitioner-respondent No.1 are justifiable, requiring no interference by this Court.

11. It is, however, observed that it will be open to the competent authority, i.e., the Collector, Siwan, to proceed with the matter afresh and, if according to him, the engagement of the respondent No.1 suffers from fraud or any such infirmity that her engagement cannot be sustained, he may pass appropriate order in accordance with law after giving adequate and reasonable opportunity

of hearing to the respondent No.1.

12. This appeal stands disposed of, accordingly.

13. There shall be no order as to costs.

(I. A. Ansari, ACJ.)

(Chakradhari Sharan Singh, J.)

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