

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.5 of 2014

IN

Civil Writ Jurisdiction Case No. 6927 of 2005

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Nutan Kumari, Wife of Anmol Kumar Yadav, Resident of Village - Karuveli,
Ward No.14, Panchayat - Vaisharha, P.S. Kumar Khand, District - Madhepura

.... Appellant

Versus

1. The State of Bihar through the Secretary, Social Welfare Department, Govt. of Bihar, Patna
2. The Director, Social Welfare Department, Government of Bihar, Patna
3. The District Magistrate, Madhepura
4. The District Welfare Officer, Madhepura
5. The Child Development Project Officer Kumar Khand, District - Madhepura
6. Sunil Yadav, Son of Upendra Prasad Yadav, the then Mukhia of Panchayat Baisarh, P.O. Yaduapatti, P.S. Kumar Khand, District - Madhepura
7. Lisha Anand, Wife of Sushil Yadav, Resident of Village - Karuveli Panchayat Baisarh, P.O. Yaduapatti, P.S. Kumar Khand, District - Madhepura

.... Respondents

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Appearance :

For the Appellant/s : Mr. SHAMBHU SHARAN SINGH

For the Respondent/s : Mr. UDAY SHANKAR SHARAN SINGH

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE SUDHIR SINGH

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date: 05-05-2015

As in the case of any other public employment in the State of Bihar, the appointment to the post of Anganwari Sevika is also a matter of extensive adjudication before the Court. Hardly an appointment takes place unless preceded or followed by a writ petition, on one pretext or the other.

Selection process for appointment of Anganwari Sevika for the village Harijan Madhya Tola, Karuveli



Anganwari Centre of Baisadh Panchayat, Madhepura, has taken place in the year 2005. The 7th respondent herein was selected and appointed as the Sevika. The appellant herein challenged the same by filing C.W.J.C. No.6927/2005. The main ground urged in the writ petition was that the 7th respondent is none other than the wife of the sister of Mukhiya of the village. Citing the relevant guidelines, it was pleaded that the 7th respondent was not qualified to be considered and still she was appointed. On behalf of the 7th respondent, it was urged that even the appellant herein is related to the Mukhiya as aunt and, apart from that, her family holds 7 acres of land.

Taking these aspects into account, a Learned Single Judge of this Court disposed of the writ petition through order dated 13.11.2009, directing that the selection of the 7th respondent shall stand set aside and that the appellant shall also not be considered in the fresh selection process on account of her being kin of the Mukhiya. The appellant feels aggrieved by the disqualification attached to her.

Heard Shri Shabbir Ahmad and Shri Shambhu Sharan Singh, learned counsel for the appellant and Shri U.S.S. Singh, G.P. 1, Shri Bindhyachal Singh and Shri

Sanjeet Kr. Singh, learned counsel for the respondents.

The only ground on which the appointment of the 7th respondent was set aside is that she is the sister-in-law of the Mukhiya. Obviously, because it is true, the 7th respondent did not challenge the order passed by the Learned Single Judge. Apart from setting aside the appointment of the 7th respondent, Learned Single Judge took the view that the petitioner cannot be considered as a candidate since she too is a close relation of the Mukhiya and holds 7 acres of land. On a close scrutiny of relevant guidelines, it becomes clear that the relationship of the appellant with the erstwhile Mukhiya is not within the prohibited degree. Further, it is stated that the Mukhiya, who is related to the 7th respondent, as well as the appellant, is no longer holding the office. Now that the fresh selections are being held, the appellant as well as the 7th respondent shall be entitled to participate, along with other candidates who may apply.

Though a request is made across the Bar that the candidature as it stood in the year 2005 when the selections were made must be taken into account, we do not find any merit in that. The scheme is for the benefit of children of the village and not for the benefit of any individual candidate.

On account of filing of the writ petition, and the orders passed therein, the village is without an Anganwari Sevika for the past six years. The Appeal itself was filed with a delay of almost four years. Under these circumstances, we do not intend to confer any benefit upon the petitioner to overcome the stipulation as to age.

With this modification, the writ appeal is partly allowed.

Interlocutory application, if any, stands disposed of.

There shall be no order as to costs.

(L. Narasimha Reddy,CJ)

(Sudhir Singh, J)

K.C.jha/-
N.A.F.R.

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