

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.12957 of 2011

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1. Bharti Priyambada Aged About 38 Years W/O Sri Rakesh Kumar R/O Sai Krikpa Road No.- 1, Vikas Colony, Sandalpur Road, Kumhrar, Patna

.... Petitioner/s

Versus

1. The State Of Bihar
2. The Commissioner, Magadh Division, Gaya
3. The District Magistrate, Nawada

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Rajendra Prasad Singh, Sr. Advocate.
Mr. Onkar Kumar

For the Respondent/s : Mr. Yogendra Pd. Sinha AAG-15

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CORAM: HONOURABLE MR. JUSTICE KISHORE KUMAR MANDAL

ORAL JUDGMENT

Date: 15-09-2015

Heard Mr. Rajendra Prasad Singh for the petitioner and Mr. Ram Subhas Singh, A.C. to A.A.G.-15 for the State.

Counter affidavit has been filed on behalf of the respondents.

Rejoinder thereto has been filed by the petitioner.

During the relevant time i.e. 2006, the petitioner was functioning as Incharge Child Development Project Officer, Warsaliganj Block in the district of Nawada besides her own substantive post. Process of selection for engagement as Sevika and Sahayika was undergone by the Selection Committee of Gram Panchayat at Raj Shahpur. The Panchayat Secretary of the Gram Panchayat was the Member Secretary of the Selection Committee. The C.D.P.O. being head of the project in the Sub-division-Block,



was obviously required to oversee the selection and other service conditions of the Sahayika and Sevika. Such selection was completed for the post of Sahayika. Aggrieved thereby, Sarjan Kumari and Pratima Devi raised dispute before the District Magistrate challenging the selection for engagement on the post of Sahayika. The same was rejected by the District Magistrate. Aggrieved thereby, an appeal was preferred before the Divisional Commissioner vide Appeal No. 56 of 2009 in which the selected candidates and the persons constituting the selection committee were only made parties. The Divisional Commissioner by the impugned order dated 21.4.2011 disposed of the appeal directing the District Magistrate, Nawada to initiate selection process of Anganwari Sewika/Sahayika afresh for the centre in question *de novo*. Having found some facts glaring from the record, the Divisional Commissioner, however, also observed as under:

“At this juncture, it would not be prudent to turn a blind-eye to the brazenly unlawful act of Saroj Kumar Singh, who in connivance with the CDPO and Mukhiya, not only impersonated as the competent authority, but also audaciously stamped his illegal acts with signatures on official documents, without any locus/standi.”

The writ application has been filed to assail the aforesaid part of the order passed by the respondent Divisional Commissioner.

It has been submitted that this observation may constitute as a

stricture against the petitioner. The petitioner was not made party to the said proceeding and, therefore, was not heard.

Counsel for the State, on the other hand, submitted that it was a case where the Panchayat Secretary, who was suspended from the service, illegally conveyed the Aam Sabha meeting and got the persons selected as Sahayika/Sewika and also issued appointment letters. The aggrieved part of the order passed by the Divisional Commissioner is not the direction of the authority. It is merely an observation.

Having considered the submissions of the parties, this Court feels to clarify that the said observation of the Divisional Commissioner shall not be treated as a stricture against the petitioner as the petitioner indisputably was not a party to the proceeding and heard. Further, there is nothing on record to show that the aggrieved part of the order has been communicated to the petitioner seeking her explanation.

The writ application is disposed of.

(Kishore Kumar Mandal, J)

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