

AIN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.904 of 2014

1. Sangeeta Kumari Wife Of Sri Piyush Kumar Resident Of Village - Chainpur,
P.O. - Chainpur, P.S. - Chainpur, District - Kaimur (Bhabua)

.... Petitioner/s

Versus

1. The State Of Bihar Through The Principal Secretary, Department Of Social Welfare, Government Of Bihar, Patna
2. The Director, Integrated Child Development Services (I.C.D.S), Government Of Bihar, Patna
3. The Commissioner, Patna Division, Patna
4. The District Magistrate, Kaimur (Bhabua)
5. The District Level Selection Committee, Through Its Chairman-Cum-District Magistrate, Kaimur (Bhabua)
6. The District Program Officer, Kaimur
7. Kumari Neesha Wife Of Birendra Singh Resident Of Village - Pihara, P.O. - Ora, P.S. - Bhagwanpur, District - Kaimur (Bhabua)
8. Ragini Srivastav Wife Of Sushil Kumar Resident Of Ward No. 5, Bhabua
9. Kiran Bala Wife Of Saket Bihari Singh Resident Of Village - Ramgarh, P.O. - Ramgarh, P.S. - Ramgarh, District Kaimur (Bhabua)
10. Rinju Kumari Wife Of Vikash Kumar Singh Resident Of Village - Ramgarh, P.O. - Ramgarh, P.S. - Ramgarh, District Kaimur (Bhabua)

.... Respondent/s

Appearance :

For the Petitioner/s : Mr. DHRUBA MUKHERJEE

For the Respondent/s : Mr. S.D. SANJAY

CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI

ORAL JUDGMENT

Date: 05-02-2015

Annexure-1 dated 3-9-2013/4-11-2013 passed by the Divisional Commissioner, Patna, in Miscellaneous Appal no. 400-2012 is under challenge in the present application. The said order is attacked on two grounds; one that the Divisional Commissioner has been passing inconsistent orders in identical matters, which can be borne out from a look at Annexure-1 as well as Annexure-

13; two divergent views have been taken on identical disputes. Why such a thing has happened, is for the Divisional Commissioner to explain. He is surely cautioned that this kind of inconsistency in adjudication should not happen in future.

The other aspect of significance is that in terms of the guidelines issued for selection of Supervisor in Anganbari, a candidate having a graduation degree in the prescribed subjects is entitled to five bonus mark over and above the average marks of Matriculation, Intermediate, Graduation. A Post Graduate is entitled to ten bonus marks. According to the petitioner, since she is a Post Graduate, she should have been given fifteen marks over and above the average mark worked out and in spite of the same only 10 marks; five for graduation and five for Post Graduation have been given

It is the contention of the learned senior counsel for the petitioner that the Divisional Commissioner has erred by misunderstanding the so called example given in the guidelines to hold that the petitioner is entitled to only 10 marks and not fifteen marks.

A counter-affidavit on behalf of the State has been filed. If there was any confusion arising out of the example so given in the previous 2010 guidelines, it surely stands resolved by the Communication dated 10-1-2012 issued by the Director, Integrated Child Development Services of I.C.D.S; such Communication is Annexure-C to the counter-affidavit. The last column 3 relates to award of marks for Graduates and Post Graduates. It clarifies that the marks, which are required to be awarded for Post Graduates after Graduate degree have to be fifteen and not ten. If this is the position notified on 10-1-2012, then obviously there is error in the decision of the Divisional Commissioner, contained in Annexure-1. The petitioner is entitled to fifteen marks. If fifteen marks are

awarded to her, she attains higher position in terms of comparison with respondent no.8 Ragini Srivastav whose selection has become vulnerable .

Despite notice having been served upon respondent no.8, she has not chosen to appear and therefore her appointment is set aside. Direction is issued to consider the appointment of the petitioner on her post because now with 15 marks petitioner has total of 71.36 marks in total.

Annexure-1 is quashed. The writ application is allowed in terms of the above.

B.Roy/-

(Ajay Kumar Tripathi, J)

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