

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14521 of 2007

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Madhurendra Kumar Singh son of Sri Hari Kishore Singh resident of village
Madhopur Ward no. 12, P.O. Belwa, Gram Panchayat Raj Belwa, P.S. Piprahi
District Sheohar.

.... Petitioner

Versus

1. The State of Bihar through the Chief Secretary Govt. of Bihar Old Secretariat,
Patna.
2. The Commissioner, Tirhut Division Muzaffarpur, District Muzaffarpur.
3. The District Magistrate, Sheohar Dist. Sheohar.
4. The District Magistrate, Sitamarhi, District Sitamarhi.
5. The Block Development Officer, Block Piprahi Dist. Sheohar.
6. The District Panchayat Officer, Sheohar, Dist. Sheohar.
7. The Sub Divisional Officer, Sheohar Dist. Sheohar.
8. Sri. Mohan Kumar Singh Sarpanch, Grampanchayat Raj Belwa P.O. Belwa
Block + P.S. Piprahi Dist-Sheohar.
9. Mukesh Kumar Singh son of Sri Kishori Prasad Singh resident of village
Madhopur P.O.+ Grampanchayat Raj Belwa P.S. Piprahi District-Sheohar.

.... Respondents

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CORAM: HONOURABLE MR. JUSTICE KISHORE KUMAR MANDAL

ORAL JUDGMENT

Date: 04-05-2015

Heard Mr. Shankar Kumar learned counsel for the
petitioner and the respondent no.9.

The petitioner was an applicant for the post of Gram
Kutchery Sachiv. The work of the Sachiv is to assist the Sarpanch in
discharging duties assigned under the Bihar Gram Kutchery Sachiv
(Niyojan, Sevasart and Kartavya) Niyamawali, 2007 (for short ‘the
Niyamawali, 2007’). The petitioner as well as respondent no. 9 were
applicants for the post of Sachiv. The Gram Kutchery in -question
was constituted in the year 2006. No appointment/engagement was
made on the post of Sachiv in absence of the Rule. Indisputably, the



Rule governing the appointment, service conditions, and duties etc was framed in the year 2007. Rule 5 provides eligibility of the candidate who can be appointed as Sachiv. It provides two conditions for appointment as Sachiv. Firstly, the applicant should be a citizen of India and the resident of the constituent village(s) and secondly, he should have passed the matriculation examination. Indisputably, both the petitioner and the respondent No.9 had passed the matriculation examination. The petitioner had secured 62.5% marks in the said examination whereas the respondent no.9 had secured 66.5% marks. The procedure of selection has been provided in Rule-6 of the Niyamawali, 2007. It appears therefrom that on a notice published in this regard, the applicants are required to file applications and thereafter the same is to be examined by a committee constituted under Sub-Rule 6 headed by the Sarpanch. A panel based on the marks obtained at the matriculation examination is required to be prepared. Indisputably, in the case at hand, the panel was prepared in which respondent no.9 figured at the Sl. no.1 whereas the petitioner figured at Sl. no. 2. In the light of the said position appearing in the panel the respondent no. 9 was engaged as Sachiv on contract basis as per Sub Rule 3 of Rule 8 of the Niyamawali, 2007. Sub Rule 2 provides that the engagement of the Sachiv shall be co-terminus with the tenure of the Gram Kutchery. The tenure of the

Gram Kutchery has since expired. It has been informed at Bar that new election thereafter has been held.

The contention of the petitioner is that an objection under Sub Rule 10 of Rule 6 of the Niyamawali, 2007 was filed by the writ petitioner before the respondent- Block Development Officer against placement of private respondent No.9 at Sl. no.1 on amongst the ground that he was the voter of two districts and that he was facing a criminal charge inasmuch as a criminal proceeding under the Arms Act was pending against him. The same has not been examined and, in the meantime, the respondent No. 9 has been allowed to continue on the post after selection.

Counsel for the private respondents and the State have submitted that for the period for which the respondent no.9 was engaged has already expired. Under Rule-5 of the Niyamawali, 2007 the eligibility has been provided. In no provision of the Niyamawali, 2007 disqualification for the post has been provided. Further, it has been submitted on behalf of the private respondents that steps had already been taken by the respondent for deletion of his name from the voter list from one of the districts but no order has been passed. There is, thus, no fault in this regard on his part.

Having heard the parties, in my opinion, in the facts and circumstances of the case, no relief can be granted to the

petitioner for the reason that the period for which the respondent no.9 was engaged has already expired. Secondly, there is no such disqualification provided in the Niyamawali, 2007 itself. Such objection regarding preparation of panel on this ground was meaningless since the Niyamawali, 2007 is silent on this point. It may be a defect in the Rule itself but the Rule which prevails requires to be followed by the respondent.

For these reasons, this Court finds no merit in this writ application. The writ application is dismissed.

(Kishore Kumar Mandal, J)

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