

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.967 of 2013

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1. Nayan Tara D/O Dr. S.N. Sinha R/O Mohalla- Block Road Raxaul, Police Staton Raxaul, District- East Champaran (Motihari)

.... Petitioner/s

Versus

1. The State Of Bihar through the Principal Secretary, Department Of Social Welfare, Govt. Of Bihar, Patna
2. The Secretary, Department Of Social Welfare, Govt. Of Bihar, Patna
3. The Divisional Commissioner, Tirhut Division, Muzaffarpur
4. The Deputy Director, Social Welfare, Tirhut Division, Muzaffarpur
5. The District Magistrate, East Champaran (Motihari)
6. The District Programme Officer, East Champaran (Motihari)
7. Amrita Kumari W/O Sri Ajit Kumar R/O Village+Post- Bhatwalia Lal Tola, Sangrampur, Police Station- Sari, District- East Champaran, Motihari
8. Ranjana Kumari W/O Raghuwendra Thakur R/O Village+Post- Bhandar, Police Station- Dhaka, District- East Champaran (Motihari)
9. Susmita Raj D/O Sri Rajeshwar Kumar Srivastava R/O Village- Chatauni, P.O. Chatauni Bazar, Police Station- Chatauni, District- East Champaran (Motihari)
10. Rupam Kumari D/O Choudhary Vijay Kumar Sharma R/O Mohalla Sri Krishna Near Chapahi Mandir, Police Station Town, District- East Champaran (Motihari)
11. Anuradha Kumari W/O Laxmi Kumar R/O Village- Laxmipur, Shakar Saraiya, Police Station- Turkaulia, District- East Champaran (Motihari)
12. Shweta Gautam W/O Gyaneshwar Gautam R/O Mohalla- Belbanwa, Police Station Town, District- East Champaran (Motihari)
13. Uma Kumari W/O Ashok Mishra R/O Village- Chand Parasa, P.O.- Bhagawatiya, Police Station- Keshria, District- East Champaran (Motihari)
14. Alka Sinha W/O Rakesh Kumar R/O Mohalla- West Gopalpur, Police Station- Bariyarpur, District- East Champaran (Motihari)
15. Anamika Kumari D/O Ram Shekar Pandey R/O Village- Brita Tola, Police Station- Dhaka, District- East Champaran (Motihari)
16. Seema Kumari W/O Krishna Kumar R/O Village- Sahljapur, Police Station- Bhagwanpur, District- Muzaffarpur
17. Tanu Verma D/O Late Kameshwar Kr. Verma R/O Mohalla- Behind Chanchal Dhaba, North Railway Godown Road, Police Station- Town, District- Motihari
18. Mangalam D/O A.L.K. Jha R/O Mohalla- Anandpuri Balbanwa, Police Station- Town, District- Motihari
19. Madhuri Kumari D/O Rambabu Singh R/O Village + P.O.- Piparakhem, Via Chakia, Polce Station- Chakia, District- East Champaran

.... Respondent/s

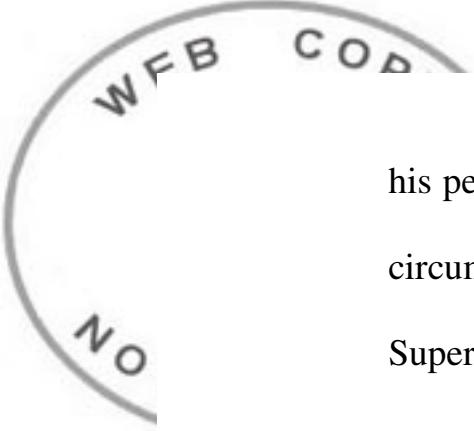
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Appearance :

For the Petitioner/s :	Mr Aditya Narain Singh
	Mr. Kundan Kumar Sinha
For the Respondent/s :	Mr. Ashok Kumar Choudhary, AAG 13
	Ms Reema Kumar, AC to AAG 13
	Mr Rupak Kumar
	Mr Sangeet Deokuliar
	Dr Kislay

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CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI
ORAL JUDGMENT
Date: 26-08-2015



After having heard learned counsel for the petitioner and his persuasive submissions, the Court is unmoved by having a look at circumstances under which appointments on the post of Anganbari Supervisor came to be made in the district of East Champaran.

It is not that the petitioner did not vehemently attack the selection process as well as the selection of the candidates prior to filing of the writ application. An effort was made to demolish the selection before the Divisional Commissioner whose order is Annexure- 1, dated 4.8.2012.

The Court did go through the order of the Divisional Commissioner rather extensively and to be fair to the Divisional Commissioner he has made a rather detailed consideration of all the objections and the points raised by the petitioner and reasons for rejecting have also been very fairly indicated therein.

However, learned counsel representing the petitioner attacks the entire selection on the ground that the guidelines issued by the State of Bihar to be followed in such selection and appointment in terms of the advertisement has not been followed in letter and spirit. The two prominent infirmities pointed out by the petitioner is that the district authorities of East Champaran did not restrict acceptance of



applications online but even received physical applications of candidates and processed it. This is a serious deviation according to him. The other infirmity pointed out is that the counselling was staggered. When the State Government had fixed a date for counselling, it should have been done and completed on that date alone.

Learned counsel appearing for the State submits that these objections are not required to be entertained by the High Court over and above what was urged before the Divisional Commissioner because it is the order of the Divisional Commissioner primarily which is under challenge and the petitioner has no leeway or liberty to argue the matter de novo and attack the order on a ground which was not even urged before a quasi authority.

Submission of the learned counsel for the State, therefore, does have merit. But to test the bona fide of the conduct and the decision of the respondents, the Court examined the matter from the materials available on record. One thing is evident that none of the selected candidates have any lesser merit or positions, who have been appointed, therefore, it cannot be a case that certain persons were appointed at the cost of the petitioner.

The State has also filed a detailed counter affidavit and explained the reasons for holding yet another counselling beyond the

date of the counselling. If such an exercise was not done, the whole process of filling up the post would have remained undone. The human elements had to be taken into consideration coupled with the facts that certain vacancies also occurred due to resignation and death of some candidates.

In the totality, therefore, the Court does not find any infirmity with the decision of the Divisional Commissioner. No major legal flaws emerge from the submissions made, independent of the submissions made before the Divisional Commissioner.

The Court, therefore, comes to a considered opinion that it is a case where allegations are more made than made out. It is so primarily for the reason that the petitioner has lost out in the race which was done on merit and no other consideration.

The Court further is not willing to selectively interfere with the selection as the petitioner wants. If the selection was vitiated the entire selection will have to be set aside. But the Court is satisfied that those materials are not available to do so.

Writ has no merit. It is dismissed.

Before parting, a last ditch effort is made by the learned counsel for the petitioner by making a submission that there are five vacancies still subsisting. If the respondent authorities try to fill up those vacancies from the old select list, the petitioner's name should

also be considered. Such a submission is a fair submission but it is contingent upon such an exercise being done.

(Ajay Kumar Tripathi, J)

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