

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.18697 of 2010

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1. Neelam Kumari W/O Naresh Prasad @ Naresh Singh R/O Vill. Muhabba
Within Mahipatol Gram Panchayat, P.O. - Dandari, Police Station Balia,
Distt. Begusarai (Bihar)

.... Petitioner/s

Versus

1. The State Of Bihar Through The Secretary, Department Of Welfare,
Government Of Bihar R/O Patna
2. The Director, Integrated Child Development Scheme Bihar R/O Patna
3. The District Magistrate - Cum - Collector, Begusarai R/O Distt.
Begusarai
4. The Deputy Development Commissioner, Begusarai R/O Distt.
Begusarai
5. The District Welfare officer, Begusarai Distt. Begusarai (Bihar)
6. The Child Development Project Officer Dandari Block, Distt. Begusarai
7. The In - Charge, Female Supervisor, Anganbari Centre No. 141, Village
- Muhabba, P.O.- Dandari, P.S. - Balia, Distt. Begusarai (Bihar)
8. Pramukh, Dandari Block, Distt. Begusarai
9. The Mukhiya, Mahipatol Gram Panchayat, P.O. Dandari, P.S. Balia,
Distt. Begusarai (Bihar)
10. Khushbu Kumari W/O Kamleshwar Kumar @ Kamlesh Kumar Singh
(the then Pramukh Of Dandari Prakhand, Distt. Begusarai) R/O Village -
Muhabba, P.S. Balia, Distt. Begusarai

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Waliur Rahman.
Mr. Ashok Kumar

For the Respondent/s : Mr. Sanjay Prakash Verma, A.C. to G.A. 1

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CORAM: HONOURABLE MR. JUSTICE KISHORE KUMAR MANDAL
ORAL ORDER

3 08-01-2015 Heard Mr. Waliur Rahman for the petitioner and Mr.

Sanjay Prakash Verma, A.C. to G.A. 1 for the State. Nobody has

appeared on behalf of respondent no. 11. No counter affidavit has

been filed on behalf of the State.

The petitioner claims herself to be an applicant for the

post of Sewika for Muhabba Anganbari Centre No. 141 under

Mahipatol Gram Panchayat in the district of Begusarai. She was



not selected for the said post by the Aam Sabha of the said Gram Panchayat. This gave a cause of action to the petitioner to make a representation before the concerned authority of the Gram Panchayat. As no action was taken thereon, she filed a writ petition in this Court vide C.W.J.C. No. 5750 of 2006. This Court by order dated 22.05.2008 (Annexure-3), considering the factual matrix involved, directed the petitioner to raise a grievance in this regard before the District Magistrate of the district who was commanded to consider the same and pass appropriate order in accordance with law. The petitioner in the light of the said order filed an application before the District Magistrate-cum-Collector, Begusarai giving rise to Misc. Case No. 52 of 2008 on the file of the said respondent. An enquiry was directed to be made. By order dated 20.04.2010 the respondent District Magistrate, in the light of the recent guidelines issued by the Government, directed the Mukhiya of the concerned Gram Panchayat to place the entire matter before the Aam Sabha to take appropriate decision in this regard. In the order itself, it was found that the respondent no. 8 being the wife of the Pramukh of Dandari Block was engaged as Sewika. The order further notes that the petitioner was not an applicant for the post of Sewika. She was applicant for the post of Sahayika. Having found so and considering the instructions



contained in the guidelines which require such mistake to be considered and rectified/cured only by the Aam Sabha of the concerned Gram Panchayat, the District Magistrate under the impugned order directed for convening of fresh meeting of the Aam Sabha where the matter was to be placed and discussed. In the light of the said order, the Child Development Project Officer, Dandari directed the Mukhiya as well as the Panchayat Secretary of the concerned Gram Panchayat to convene a meeting of the Aam Sabha. In the meantime, the petitioner filed the present writ application wherein under order dated 21.06.2011, further step pursuant to the order impugned in the present case was stayed. In such circumstances, the meeting of the Aam Sabha could not be held.

Counsel for the petitioner has submitted that the petitioner was an applicant for the post of Sewika. Under the impugned order, it has been wrongly recorded that she was an applicant for the post of Sahayika and was engaged as such. Referring to sub-clause 4.8 of Clause 4 of the *Margdarshika* issued by the Government in the year 2013, it has been submitted that the wife of the elected representative has been held disqualified to hold the post either of Sahayika or Sewika. In his submission, such provision existed from the very inception of such

exercise. The continuance of respondent no. 8 is, therefore, wholly contrary to the provisions which govern the selection/engagement on the post of Sewika/Sahayika.

Counsel for the State, on the other hand, submitted that the post of Sewika and Sahiyaka is contractual in nature inasmuch as the incumbents thereof get only a fixed honorarium. It has been held by this Court that such person does not hold a government post. However, if any illegality has been committed in the engagement on the post(s) of Sewika/Sahayika, the same can always be rectified by the Aam Sabha of the Gram Panchayat which is the appropriate body. An applicant who is otherwise eligible to hold the same can be engaged on such post if he or she enjoys the confidence of the Aam Sabha.

Having heard the parties, in my view, the matter concerning engagement of Sewika/Sahayika for the Centre in question falling under the Gram Panchayat in question should be referred to for consideration and decision by the Aam Sabha of the concerned Gram Panchayat who, as agreed between the parties, would be the competent body to take decision in this regard. The order impugned is also to the same effect. It appears that such meeting was directed to be convened under the orders of the Child Development Project Officer as is evident from Annexure-6.



However, the further steps in this regard could not be taken owing to the order passed by this Court in the present proceeding on 21.06.2011. Now, this Court, while disposing of the writ application, directs the Mukhiya of the concerned Gram Panchayat as well as the Child Development Project Officer, Dandari (respondent no. 6) to ensure that the meeting of the Aam Sabha of the Gram Panchayat in question is convened as quickly as possible preferably within six weeks from the date of receipt/production of a copy of this order before the Child Development Project Officer (respondent no. 6) as well as Mukhiya of the Gram Panchayat (respondent no. 9). The Aam Sabha will deliberate over the matter afresh and take appropriate resolution/decision in accordance with the relevant *margdarshika*/guidelines issued by the Government. It will be open to the petitioner to demonstrate before the Aam Sabha that she had, in fact, applied for the post of Sewika which was overtly ignored by the respondents and not placed before and considered by the Aam Sabha.

This disposes of the writ application.

(Kishore Kumar Mandal, J)

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