

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15092 of 2015

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Manju Kumari, W/o Sri Sheo Chandra Rai, R/o Vil- Kerwan, P.S.- Isuapur,
Distt- Saran (Chapra).

.... Petitioner

Versus

1. The State of Bihar.
2. The Commissioner of Saran Division at Chapra.
3. The Deputy Director Welfare, Saran (Chapra).
4. The Collector of Saran (Chapra).
5. The District Programme Officer, Saran (Chapra).
6. The Block Development Officer, Isuapur Block, Saran (Chapra).
7. The Child Development Programme Officer, Isuapur Block, Saran (Chapra).
8. Smt. Jyoti Kumari, W/o Sri Ravindra Kumar Rai, R/o Vill- Kerwan, P.S.- Isuapur, Distt- Saran (Chapra).

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Shashi Bhushan Kumar, Adv.
For the Respondent/s : Mr. Sunil Kumar Ravi, AC to AAG3

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CORAM: HONOURABLE MR. JUSTICE MIHIR KUMAR JHA
ORAL ORDER

2 28-09-2015 Heard learned counsel for the parties as with regard to the following relief prayed in this writ application:

“i. To quash the order dated 30.12.2011 passed by District Magistrate whereby and whereunder the application of the petitioner has been rejected and direct to initiate true fresh appointment process.

ii. To further quash the order dated 17.1.2015 passed in Anganbari appeal No. 297/12 by the Commissioner, Saran Division at Chapra whereby and whereunder according to the circular no appeal will lie before Commissioner against the order of Collector. As such, this case is dismissed at the admission stage.

iii. To further direct to the respondent authority reinstate the petitioner on the post of Aanganbari Sevika with all

consequential benefits.”

Learned counsel for the petitioner in support of the aforementioned prayer has basically concentrated on the aspect that it was not correct on the part of the Divisional Commissioner to non-suit the petitioner on the ground that during the pendency of the appeal filed by the petitioner the Government had changed the policy with regard to filing of the appeal, inasmuch as all those appeals, which were filed prior to change in the policy as notified by the Welfare Department in its circular being ICDS/50030/22-2012/2354 dated 17.5.2013, had to be disposed of by the same authority under whom such power of hearing appeal was delegated.

Learned counsel for the State, on the other hand, has submitted that the whole appeal of the petitioner was itself misconceived, inasmuch as when the petitioner herself had moved the Collector assailing the mode of selection for Anganwari Sevika in Anganwari Centre No.7 in village Kerwa under Isuapur Block and the Collector had found the entire selection process to be vitiated on account of forgery in the proceeding of Gram Sabha, the petitioner instead of rushing to file the appeal ought to have waited for compliance of the order of the Collector.

In the considered opinion of this Court there would be no



difficulty in holding the order of the Divisional Commissioner to be bad for a simple reason that if the Government had changed the appellate authority in its circular dated 17.5.2013 the earlier appeals filed by the petitioner were required to be either disposed of by him or to be transferred to the appellate authority but they could not have been dismissed by placing reliance on the circular dated 17.5.2013.

The question, however, will be that even after this Court will hold the order of the Divisional Commissioner to be bad, that will inure no benefit to the petitioner because the Collector in his impugned order has held that the petitioner cannot be appointed in Centre No.7 on account of fatal infirmity in the proceeding of selection and in fact he had directed for undertaking fresh process of selection to fill up the post of Anganwari Sevika in Centre No.7 in village Kerwa under Isuapur Block.

It is the case of the petitioner in paragraph no.32 that the aforesaid post of Anganwari Sevika in Centre No.7 is still vacant and alternative arrangement has been made for continuing by respondent no.8 who actually is working as Anganwari Sevika in Centre No.6.

Thus, this Court would direct the District Programme Officer (Establishment), Saran to examine the claim of the

petitioner and if it is found that the post of Anganwari Sevika in Centre No.7 has not been filled up as yet, the same should be filled up immediately as per direction given by the Collector, Saran in his order dated 30.12.2011, as contained in Annexure 1 to this writ application. It is made clear that in the process of fresh selection the case of everyone including the petitioner shall be considered in accordance with law.

With the aforementioned observation and direction, this application is disposed of.

(Mihir Kumar Jha, J)

surendra/-

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