

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.7527 of 2014

With

Interlocutory Application No.6588 of 2014

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Pinki Devi, D/O Sri Nageshwar Yadav, wife of Sri Umesh Yadav, resident of village-Bharkahua, P.O.and P.S.-Barahat, District-Jamui.

.... Petitioner

Versus

1. The State of Bihar
2. The Director, Welfare Department, Govt. of Bihar, Patna.
3. The Divisional Commissioner, Munger.
4. The District Magistrate, Jamui.
5. The District Project Officer, Munger.
6. The Sub-Divisional Officer, Jamui.
7. The Child Development Project Officer, Barahat, P.O.+P.S.-Barahat, District-Jamui.
8. The Mukhiya, Gram Panchayat Raj Numar, P.O.+P.S.-Barahat, District-Jamui.
9. The Panchayat Secretary, Gram Panchayat Raj Numar, P.O.+P.S.-Barahat, District-Jamui.
10. Savita Kumari, wife of Sri Madan Yadav, resident of village-Bharkahua, P.O.+P.S.-Barahat, District-Jamui.

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Prakash Mahto

For the Respondent nos.1to7: Mr. Yogendra Kumar Singh, AC to SC-15

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA

ORAL JUDGMENT

Date: 22-01-2015

The petitioner is aggrieved by the order dated 26.11.2011 (Annexure-4) passed by the respondent District Magistrate, Jamui, whereby the selection of the petitioner on the post of Anganwari Sevika of Anganwari Centre Bharkhuan, Panchayat- Numar, Block-Barhat in the district of Jamui has been cancelled on the ground that she had obtained her selection on the post of Anganwari Sevika on the basis of forged matriculation certificate and she does not know reading and writing required for the said post. She is also aggrieved by the order dated 11.01.2014 (Annexure-8) passed in Misc.Service Appeal No.04/2012 by the respondent Divisional Commissioner, Munger, whereby the order passed by the respondent District Magistrate has not been interfered with and a direction has been

issued to the District Programme Officer, Jamui to start a fresh selection process for appointment on the post of Anganwari Sevika for the Anganwari Centre in question, as per the guidelines of the State Government. However, the petitioner has also been granted liberty to apply for the said post, if she otherwise fulfills the conditions for such selection/appointment.

Learned counsel appearing on behalf of the petitioner submits that, in fact, the petitioner is holding the Madhyama certificate equivalent to the matriculation. Therefore, the respondent District Magistrate was not justified in holding that the petitioner secured her selection on the post of Anganwari Sevika on the basis of a forged matriculation certificate. He further submits that, though the petitioner was discharging her duty on the post of Anganwari Sevika in view of her selection on that post, yet a direction has been issued for recovery of entire honorarium paid to her with interest. In I.A.No.6588 of 2014, it has been stated that, in the light of the order passed by the respondent Divisional Commissioner, an advertisement was issued on 24.08.2014 in daily newspaper 'Dainik Jagarn' for filling up the vacant post of Anganwari Sevika for the Anganwari Centre in question.

After having heard the learned counsel appearing on behalf of the petitioner as also learned State counsel, this Court finds that the selection of the petitioner was cancelled as far back as in the year 2011 by the respondent District Magistrate by holding that the petitioner does not possess the requisite qualification for selection on the post of Anganwari Sevika and she does not known reading and writing required for that post, and that order has been affirmed by the respondent Divisional Commissioner. A direction has also been issued by the respondent Divisional Commissioner for making fresh selection on the post of Anganwari Sevika for the Anganwari Centre

in question and the petitioner has also been given liberty to participate in the aforesaid selection process, if she fulfills the conditions for such selection/appointment. Indisputably, the selection process has already been started, where she can demonstrate that she knows reading and writing required for the post of Anganwari Sevika. She can further show that she is having valid educational certificate for the post in question.

In above view of the matter particularly, in view of the fact that there is a dispute as to whether the petitioner is having requisite qualification or not for her selection on the post of Anganwari Sevika, this Court is not inclined to interfere with the impugned order to that extent, when the petitioner has also been granted liberty to participate in the fresh selection process where her educational qualification as also her certificate shall be subjected to further scrutiny. However, the order dated 26.11.2011 (Annexure-4) passed by the respondent District Magistrate so far it relates to recovery of honorarium paid to the petitioner cannot be sustained, as admittedly, after her selection the petitioner was allowed to discharge her duty on the post of Anganwari Sevika. Therefore, the order dated 26.11.2011 (Annexure-4) to the extent of recovery of honorarium paid to the petitioner is set aside and quashed.

The writ petition partly succeeds and stands finally disposed of with the observations and directions made above. The I.A.No.6588 of 2014 stands accordingly disposed of. However, there shall be no order as to costs.

Arvind/-

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(Birendra Prasad Verma, J)