

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.982 of 2014

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1. Anita Devi W/O Sri Anil Singh Resident Of Village- Englishpur, P.O.- Senia
Barata, P.S.- Jagdishpur, District- Bhojpur

.... Petitioner/s

Versus

1. The State Of Bihar
2. The Principal Secretary, Social Welfare Department, Government Of Bihar,
Patna
3. The Director, Social Welfare Department, Govt. Of Bihar, Patna
4. The Commissioner, Patna Division, Patna
5. The District Magistrate-Cum-Collector, District- Bhojpur, Ara
6. The District Development Commissioner, District- Bhojpur, Ara
7. The District Programme Officer, Bhojpur At Ara
8. The Chief Development Project Officer, Jagdishpur Block, District- Bhojpur,
Ara
9. The Mukhiya, Gram Panchayat Raj, Harigaon Under Jagdishpur Block, District-
Bhojpur
10. The Panchayat Secretary To The Gram Panchayat Raj, Harigaon Under
Jagdishpur Block, District- Bhojpur, Ara
11. Geeta Devi W/O Pitambar Singh Resident Of Village- Englishpur, P.O.- Barata,
P.S.- Jagdishpur, District- Bhojpur

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. BIDHAN CHANDRA JHA

For the Respondent/s : M/S Sanjeev Kumar Singh(AC to SC12) and Naushad
Akhtar

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CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI

ORAL JUDGMENT

Date: 06-02-2015

Either the rule of law will prevail in this country or by interfering with the impugned order, contained in Annexure-7 as well as Annexure-10, the Court will certify that the rule of Mukhiya will prevail in this country. The Court has reason to say this after going meticulously through the two impugned orders as well as the finding which has emerged therein.

Besides the petitioner, there were other applicants for consideration on the post of Anganbari Sevika; Geeta Devi was one of them. Despite her application being submitted with the Panchayat, the Panchayat Sevak refused to give any receipt thereof. She pursued and persisted with the Panchayat authorities, but they avoided to issue receipt, obviously with the object that there was no application filed by Geeta Devi for consideration. Geeta Devi moved various authorities, including the District Magistrate, Bhojpur in this regard. The District Magistrate, Bhojpur gave direction to the subordinate authorities to appear and explain the position. He even passed an order that no selection is going to be made on the post till the dispute is decided.

But, in blatant violation of the District Magistrate's direction, the Mukhiya on 19-4-2010, the day the matter was fixed before the District Magistrate for hearing, appointed the petitioner on the post of Anganbari Sevika. This is the background under which the Court observed that either rule of law shall prevail or the rule of Mukhiya will prevail. There are other findings as to how the selection of the petitioner has been pushed through by the Gram Panchayat by giving a complete go-by of the direction and order of restraint passed, pending adjudication, by the District Magistrate. If the District Magistrate thereafter issued the order, contained in Annexure-7, to annul the selection of the petitioner and hold a fresh exercise, and the said order has been affirmed by the Divisional Commissioner, none of the authorities can be said to have decided the matter in violation any rule or procedure. In fact, any interference with the impugned orders will only embolden the Mukhiyas to be law by themselves and ignore the procedure and the guidelines issued with regard to such selection.

In this background the Court is of the opinion that no interference whatsoever is warranted with the impugned orders.

The writ application is dismissed.

(Ajay Kumar Tripathi, J)

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