

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.15577 of 2014

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Bela Sinha W/o Sri Naresh Chandra Singh, R/o Village- Pura, P.O.- Karian, P.S.-
Hathauri, District- Samastipur

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary of the Social Welfare Department, Government of Bihar, Patna
2. The Director, Integrated Child Development Scheme, Bihar, Patna
3. The District Magistrate, Samastipur, District- Samastipur
4. The District Programme Officer, Samastipur, District- Samastipur
5. Meera Kumari, D/O Late Radhe Sah, W/O Sri Ramanand Gupta, R/o Village- Yogiya Math, P.O.- Adharpur, P.S. Shivajinagar OP, District- Samastipur
6. Anju Kumari D/O Ramashray Pandey, W/O Sri Parmanand Rai, R/o Village- Chaita, North, P.S.- Angarghat, District- Samastipur

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Mrityunjay Kumar

For the Respondent/s : Mr. Harish Kumar, GP 32

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CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI

CAV JUDGMENT

Date: 29-01-2016

Petitioner has lost out in her search for employment on the post of Lady Supervisor under Integrated Child Development Scheme (ICDS) in the district of Samastipur. She responded to the advertisement contained in Annexure-1 and belongs to the Backward category. Her marks is as high as 85.55%. Despite her marks she has been put in the category of wait listed candidates and had a legitimate expectation to be appointed. However, the respondent authorities did not play fair because they ended up appointing certain candidates, who did not deserve to be there. This fact became apparent when the selection list was notified in terms of Annexure- 2

as is the assertion of learned counsel for the petitioner.

2. Petitioner raised objections against the selection of respondent no.6, namely, Anju Kumari, whose name figures at serial no.33 and has been shown to be a General Category candidate, even though she is not. Petitioner also attacks the selection of respondent no.5, namely, Meera Kumari, whose name figures at serial no.12. She has been shown to be selected under Backward Category candidate.

3. Despite the petitioner raising the issue before the competent authority, did not beget appropriate response, instead of waiting any further she decided to file the present writ application seeking cancellation of the selection of respondent no.6, Anju Kumari and to accommodate respondent no.5, Meera Kumari against the General Category and thereafter appoint the petitioner in the vacancy, which will be caused by moving respondent no.5 from the Backward Category candidate, by offering her the slot vacated by Meera Kumari.

4. A counter affidavit on behalf of the official respondents of the State of Bihar has been filed after due service on the petitioner. They deny any wrong doing by any authority in the process of selection, which was adopted. It is their stand that the committee very carefully prepared the list of successful candidates taking due note of the guidelines issued by the ICDS and to establish

their bona fide, they have annexed the entire note-sheet relating to the deliberation as well as the modality, which was adopted in preparing the merit list of selected candidates.

5. The respondents, in fact, have done no wrong in appointing Anju Kumari for the reason that initially when the merit list was prepared one Meena Kumari, who belongs to an unreserved category candidate, having the highest marks in her category, was selected. However, it was subsequently discovered that Meena Kumari had resigned from the post of Aanganbari Sevika as she was selected as a Teacher, prior to the selection, therefore, Anju Kumari, respondent no.6 with highest marks as 87.89% was first on the waiting list, had to be accommodated against the said vacancy.

6. It is the stand of the counsel for the State that the present writ application is a deliberate mischief being played by the petitioner to create a vacancy where she could be accommodated by pleading for removal of Anju Kumari first and then trying to push Meera Kumari in the slot of Anju Kumari since Meera Kumari belongs to a Backward Category candidate and since the present petitioner, who has been shown to be in the wait list, has the highest marks amongst the Backward Category candidate, she can occupy the slot vacated by Meera Kumari.

7. Learned counsel for the petitioner submits that the



respondent authorities have deliberately brought into play the name of Meena Kumari, who should not have been selected in the very first place. The subsequent discovery that she had already resigned from the post of Sevika is an afterthought. This was a clever ploy to accommodate respondent no.6 since she was at wait list no.1 amongst the General Category candidate.

8. The Court is not convinced that this was a deliberate mischief. When there are large number of applicants and candidates, who were required to be selected against 135 posts of Lady Supervisors across the district of Samastipur, the fact that a person, who was an applicant but had later tendered her resignation, could have been missed out or not placed before the committee at the appropriate time. When this fact came to be noticed, naturally respondent no.6, who was number 1 on the wait list, was offered the opening for a General Category candidate by virtue of the percentage of marks she had obtained.

9. The writ application of the petitioner further cannot be entertained for the reason that the State Government has now put a complete ban on appointment on contract as per letter dated 15.12.2012. Communication of this kind has been brought on record by the State in its counter affidavit as Annexure-D. Therefore, even otherwise no direction can be issued in favour of the petitioner for any

appointment even if for the sake of argument the stand of the petitioner is accepted with regard the appointment of private respondent no.6 on the post of a Lady Supervisor.

Writ application, therefore, is dismissed since it has no merit.

(Ajay Kumar Tripathi, J)

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