

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.11328 of 2008

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Smita Singh, daughter of Sri Shashi Bhushan Prasad Singh, wife of Sri Raj Kishore Singh, resident of Village- Kumbhi, P.O.- Samay, P.S. Warisaliganj, District- Nawada.

.... Petitioner

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. Director, Panchayati Raj, Government of Bihar, Patna.
3. Collector, Nawadah.
4. Sub Divisional Officer, (S.D.O.), Nawada.
5. Block Development Officer (B.D.O), Warisaliganj, District- Nawada.
6. Smt. Dharmashila Kumar, W/o Kumar Navin, resident of Village- Murgiyachak, P.S.- Warisaliganj, District- Nalwada.

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Rajendra Narain, Sr. Advocate
Mr. Anju Narain
Mr. Sanjay Kr. Srivastava
For the Respondent/s : Mr. (GP3)
Mr. Ram Prasad Singh, Advocate

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CORAM: HONOURABLE MR. JUSTICE SAMARENDRA PRATAP SINGH

ORAL JUDGMENT

Date: 11-01-2016

Heard learned counsel for the petitioner, State and the private respondent.

The petitioner seeks quashing of the order dated 12.06.2008 passed by the Sub Divisional Officer, Nawada (Annexure-10), which was affirmed in appeal by order dated 01.07.2008 passed by the Collector, Nawada.

The facts of the case in brief is that on 16.11.2007, the Gram Kachahari Selection Committee selected the petitioner for the post of Kachahari Sachiv of Parnama Gram Panchayat under

Nawada district, whereafter a formal appointment letter was issued. There is some dispute whether the Gram Kachahari Selection Committee prepared a panel for the selection or whether it was selection at all.

It appears that a complaint was filed by respondent no.6, namely, Smt. Dharmashila Kumari. In her complaint she alleged that the petitioner is not the resident of village Kumbhi, P.S. Warisaliganj, District- Nawada and as such she could not have been appointed as Kachahari Sachiv of Parnama Gram Panchayat, which falls within Nawada district.

It is not in dispute that selection to the post of Kachahari Sachiv was to be made amongst the residents of Nawada district. On the other hand, the respondent no.6 asserted that the petitioner is a resident of Nai Pokhar, Rajgir in the district of Nalanda. The petitioner does not dispute that her husband is original resident of Nai Pokhar, Rajgir, Nalanda. However, the entire land of her husband was acquired for Ordinance factory and as a result she along with her husband moved to her matrimonial place in village Kumbhi where they built their separate residence. Since a quite long time they are residing at village Kumbhi. It is further her case that neither her name nor name of her husband was figured in the voter list of Nai Pokhar, Rajgir, Nalanda but the same find place in the voter list of village

Kumbhi under Warisaliganj police station within Nawada district.

The petitioner next submitted that a toll was paid by respondent no.6, who by posing her signature filed an application for residence certificate of Nai Pokhar, Rajgir in order to discard the petitioner's case that she is resident of village Kumbhi. The aforesaid fact was vehemently opposed by respondent no.6 and submits that the petitioner is now backing out from the truth that she applied for the residence certificate of being resident of Nai Pokhar, Rajgir.

The dispute came for consideration before the Sub Divisional Officer, Nawada, who was not satisfied with the explanation of the petitioner that she is now resident of village Kumbhi, district Nawada.

Being aggrieved, the petitioner had filed statutory appeal before the Collector, Nawada under Rule 13 of Bihar Gram Kachahari Sachiv Niymabali, 2007.

The petitioner has assailed the impugned order both on merit as well as on the ground that the appellate authority has not passed a reasoned order discussing the grounds of her appeal. She submits that the appellate authority omitted to consider the report of Sarpanch, Gram Kachahari, Parnama, who in his report stated that the petitioner for all purposes has become the resident of village Kumbhi within Nawada District. He further stated that the petitioner in fact

had not applied for residence certificate of Nai Pokhar, Rajgir, rather the same is the mischief of respondent no.6.

As I need not go into the issue of facts and rival claim made by the respective parties on the merit of the case. In view of the fact that the case of the petitioner would succeed on the ground alone that the order of learned appellate authority is not a speaking order.

In the result, the impugned order passed by the appellate authority dated 01.07.2008 is set aside and the matter is remitted to him for fresh consideration on merit.

The writ application is allowed only to the limited extent.

It is expected that the appeal would be disposed of within a period of three months from the date of receipt of a copy of the appeal. It will be open for both the parties to raise the points in support of their respective case.

(Samarendra Pratap Singh, J.)

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