

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.12387 of 2013

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Gita Kumari, wife of Bindo Kumar, resident of village- Surari, Tola- Surari, P.S. Halsi, District- Lakhisarai.

.... Petitioner

Versus

1. The State of Bihar.
2. The Secretary, Welfare Department, Old Secretariate, Bihar, Patna.
3. The Divisional Commissioner, Munger.
4. The District Magistrate, Lakhisarai.
5. The District Programme Officer, Lakhisarai.
6. The Child Development Project Officer, Halsi-cum. Ramgarh Chowk, District- Lakhisarai.
7. Manju Kumar, wife of Shiv Prakash Prasad, resident of village- Surari Immamnagar, P.O. Surari Immamnagar, P.S. Halsi, District- Lakhisarai.

.... Respondents

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Appearance:

For the Petitioner/s : Mr. Manohar Prasad Singh, Adv.
Mr. Narsingh Tanti, Adv.

For the Respondent/s : Mr. Hhimanshu Kumar Akela, A.C. to P.A.A.G.-2

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 23-09-2016

Heard learned counsel for the petitioner and learned
counsel for the State.

2. In this case, the petitioner is challenging the order of
the Divisional Commissioner, Munger, dated 12.02.2013, whereby
and whereunder the Divisional Commissioner has set aside the
order of the District Magistrate, Lakhisarai, and directed for
appointment of Manju Kumari- private respondent No.7

3. The present petitioner and private respondent No.7 both have applied for being appointed as Anganbari Sevika for Surari Immamnagar, Centre No.64. The petitioner was appointed and the respondent No.7 was not appointed though she having a degree of matriculation with second division.

4. After a delay of 11 years the District Programme Officer, Lakhisarai, has removed the petitioner from the post of Anganbari Sevika for the act of forgery. The petitioner challenged the action of the District Programme Officer, Lakhisari, in C.W.J.C. No.8441 of 2009. The same was disposed of vide order dated 23.07.2009 with a direction to the District Magistrate, Lakhisarai, to consider the representation of the petitioner and if the District Magistrate, Lakhisarai, is satisfied that the minimum qualification for appointment on the post of Anganwari Sevika is Class-VIII then the petitioner will be allowed to function in the said centre.

5. The District Magistrate, Lakhisarai, in pursuance thereof, has passed the order dated 9.10.2009 in Misc. Case No. 06 of 2009-10 recorded that the private respondent No.7 is not justified to file an application making an allegation that she has obtained the appointment on the basis of matriculation certificate

and accepted the plea of the petitioner that she is VIII pass which was minimum qualification and accordingly directed for appointment of the petitioner.

6. Being aggrieved by the aforesaid order, the private respondent No.7 has filed two writ applications being C.W.J.C. No.14933 of 2009 for her appointment as Anganbari Sevika and C.W.J.C. No.5708 of 2009, challenging the order of the Collector. This Court vide order dated 06.05.2011 dispose of the said writ applications with a liberty that the petitioner may raise the grievance before the Divisional Commissioner. The respondent No.7 challenged the said order in Division Bench unsuccessfully. The order of the learned Single was affirmed in S.L.P.(Civil). No. 33312 of 2011. Ultimately, the matter was decided by the Divisional Commissioner, Munger, in Misc. Appeal No. 60 of 2011, which is under challenge before this Court in this writ application.

7. The counsel for the petitioner has submitted that the petitioner was appointed on the basis of class-VIII qualification, she has never claim of her appointment on the basis of matriculation certificate.



8. Before the Divisional Commissioner the respondent No.7 has taken a plea that she has got the appointment on the basis of the matriculation and in support of the same, the plea was that in the year 1998, the honorarium for Anganbari Sevika was Rs.500/- per month for matric and Rs.450/- per month for non matric and in the year 2003 the honorarium was Rs.1031/- per month for matric and Rs.969/- for non matric, but all through she received the honorarium of matric though she has not objected and stated that she entered into the service on the basis of the qualification of VIIIth pass, but the Divisional Commissioner, Munger, has recorded a finding that the petitioner has received the honorarium on the basis of matric qualification which gives an inference that she was appointed on the basis of that certificate.

9. Today, the learned counsel for the State has produced the application form of the petitioner which she has filed at the time of training, where she declared herself to be the matric pass. In the certificate also the qualification also mentioned as matriculation and so much so that as has been fairly stated by the learned counsel for the petitioner a criminal case is also lodged against the present petitioner.

10. Aforesaid discussion shows that petitioner obtained the post of Anganbari Sevika on the strength of matriculation certificate, which admittedly she is not.

11. In such view of the matter, this Court does not find any error in the order of the Divisional Commissioner. Accordingly, this writ application is dismissed. Let the document produced by the State be kept on record for future reference.

12. At this stage, learned counsel for the petitioner has submitted that the respondent No.7 had never applied for the post of Anganbari Seviak, but has wrongly been adjusted on the said post. This part will be examined by the competent authority and if it is found that private respondent No.7 has not applied for the post of Anganbari Sevika, but has wrongly been adjusted on the said post, the competent authority shall take appropriate action against her in accordance with law.

(Shivaji Pandey, J)

pawan/-

AFR/NAFR	N.A.F.R.
CAV DATE	N/A
Uploading Date	27.09.2016
Transmission Date	