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IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.11134 of 2013

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1. Kalawati Devi W/O Sri Sanjay Mishra
2. Nitu Devi W/O Sri Raj Kumar Sharma

Both residents of village- Parahan, P.O.- Akbarpur, P.S.- Kinger, District- Arwal.

.... Petitioners

Versus

1. The State Of Bihar
2. The Principal Secretary, Social Welfare Department, Government of Bihar, Patna.
3. The Director, ICDS Government of Bihar, Patna.
4. The District Magistrate, Arwal.
5. The District Programme Officer, Arwal.
6. The Child Development Officer, Karpi Block, District- Arwal.

.... Respondents

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Appearance :
For the Petitioner/s : Mr. S. S. Tiwary, Advocate
For the Intervenor : Rabindra Kumar Priyadarshi, Advocate
For the Respondent/s : Mr. Iqbal Asif Niaze, AC to GP-5

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY
ORAL JUDGMENT
Date: 04-10-2016

Heard learned counsel for the petitioners, learned counsel for the Intervenor and the learned counsel for the State.

The matter relates to the appointment of Aaganwari Sevika and Aaganwari Sahaika of Center No. 160 of Parha-II in the district of Arwal. An advertisement was published on 01.02.2013 in Hindi daily newspapers ‘Dainik Jagran’ and in pursuance thereof, no other candidates except petitioners no. 1 applied for the said post and petitioner no. 2 has applied for the post of Aaganwari Sahaika. The Guidelines / Rules for the

appointment of Aaganwari Sevika and Sahaika issued vide Memo No. 2862 dated 04.11.2011 at Rule 8.2, it has been provided that if for appointment on the post of Aaganwari Sevika, single application is received then such application shall be considered and selection process shall be completed. The District Programme Officer had made illegal demand and due to non fulfillment of illegal demand, the District Programme Officer due to obvious reasons submitted incorrect report and illegally staying the selection process and the District Programme Officer has issued a fresh advertisement on 13.05.2013, without cancelling the earlier advertisement dated 01.02.2013.

Learned counsel for the petitioners submits that only because one person, who has applied for the said post against that advertisement cannot be a basis for cancellation of the selection process of Aaganwari Sevika and Aaganwari Sahaika as the Guidelines / Rules for the appointment of Aaganwari Sevika and Sahaika issued vide Memo No. 2862 dated 04.11.2011 at Rule 8.2, it has been provided that if for appointment on the post of Aaganwari Sevika, single application is received then such application shall be considered and selection process shall be completed, but in the present case, wrong method has been applied without cancellation of earlier advertisement, new advertisement

was published for inviting application for the said post so second round of selection process is suffered from illegality and does not require Judicial scrutiny of this Court.

Whereas, learned counsel for the intervenor as well as learned counsel for the State have pointed out that as there was one person, who applied for the said post and that there was no proper circulation of advertisement and, as such, it requires a second advertisement. It is the villagers of locality raised grievance that there was no proper circulation advertisement, hence, only one application was made of present petitioner. On advertisement, second time the petitioners applied for the said post and the name of the petitioner no. 1 is standing at serial No. 6 at the bottom of the merit list.

Having considered that the argument of learned counsel for the petitioners as well as the reply of the intervener application, he raised a plea that the merit list attached to the intervenor application is completely false and fabricated document. Whereupon, this Court is directed to the learned counsel for the State to give explanation with regard to legality of document and apprise this Court about the allegation use of forged and fabricated merit list has been attached by the intervenor.

Today, learned counsel for the State has filed the reply

and has taken a stand that it is genuine document not a forged and fabricated document, where the name of the petitioner is standing at serial No. 6 itself shows his participation in the selection process. When she has already participated and her name is standing at serial No. 6, where it has been shown that she has secured 58.71 marks at serial no. 6 whereas Sunita Devi, who has secured 73.6 marks, has been put at the top of the list. The merit list has been prepared but not acted upon on account of the order passed by this Court. Where the name of petitioner is standing, now she cannot turn round and challenge the selection. In such view of the matter, this Court does not find any substance in the contention of the petitioners.

In such view of the matter, let the Selection Committee go for selection and whoever is the best person should be appointed as Aaganwari Sevika and Aaganwari Sahaika. The process of selection must be completed within a period of three months from the date of production / receipt of this order.

Accordingly, this application is dismissed.

(Shivaji Pandey, J)

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