

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.915 of 2015
Arising out of
Civil Writ Jurisdiction Case No. 4700 of 2015**

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Neetu Kumari, W/o Rajesh Kumar, Resident of Village Chaura
Parwaha, Ward No. 14, P.S. Forbesganj, District Araria.

.... Appellant

Versus

1. The State of Bihar, through Secretary, Social Welfare Department,
Government of Bihar, Patna.
2. The Director (I.C.D.S.) of Social Welfare Department, Govt. of
Bihar, Patna.
3. Assistant Director (I.C.D.S.) of Social Welfare Department of
Government of Bihar, Patna.
4. The Joint Commissioner cum Secretary, Regional Transport
Authority, Purnea Commissioner, Purnea.
5. District Magistrate, Araria.
6. District Programme Officer, Araria.
7. Child Development Project Officer, Forbesganj Block, District
Araria.
8. The Anchaladhikari, Block Forbesganj, District Araria.
9. Sita Kumari, W/o Anant Kumar Sah, Resident of Village- Cahura
Parwaha, Ward No. 14, P.S. Forbesganj, District Araria.

.... Respondents

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Appearance :

For the Appellant : Mr. S. Kishore, Sr. Advocate.
Mr. Nafisuzzoha, Advocate.

For the Respondents : Mr. P.K. Verma, A.A.G. 5
Dr. Mankeshwar Tiwari, A.C. to A.A.G. 5.

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CORAM: HONOURABLE MR. JUSTICE HEMANT GUPTA

and

HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE HEMANT GUPTA)

Date: 05-04-2016

Heard learned counsel for the appellant and the respondents.

2. The challenge in the present Letters Patent Appeal is to an

order passed by the learned Single Bench of this Court on 30th of March, 2015 in C.W.J.C. No. 4700 of 2015, whereby the writ application filed by the appellant was dismissed.

3. The appellant applied for selection to the post of Anganwadi Sevika along with one Sita Kumari, Private Respondent No. 9. Sita Kumari has been appointed as Anganwadi Sevika. The appellant has challenged the selection on the ground that she is higher in merit and, therefore, she should have been appointed as Anganwadi Sevika in preference to Sita Kumari.

4. The learned Single Bench dismissed the writ application but the detailed order passed by the Collector was not mentioned by the learned Single Bench. As per the order passed by the Collector, the appellant got 74.29 marks and Sita Kumari has got 62.80 marks. There was a survey conducted to find out the distance of the Centre from the houses of both the appellant and Sita Kumari. It was found that house of Sita Kumari is nearer to the Centre.

5. Learned counsel for the appellant vehemently argued that both the appellant and Sita Kumari are residents of the same village. Therefore, a candidate lower in merit could not have been appointed in preference to the appellant who is higher in merit.

6. We have heard learned counsel for the parties and find no merit in the argument raised. No doubt, the appellant is higher in merit than Sita Kumari but a finding of fact has been recorded by the Collector that house of Sita Kumari is nearer to the Centre than to the house of the

appellant. Condition No. 4.6 of the instructions published by the State Government in the year 2011 contemplates that if a candidate from the area of the Centre is not available then a candidate from the nearest ward would be selected. In view of such condition, since the house of Sita Kumari is nearer to the Centre, she has been rightly appointed in terms of Clause 4.6 of the Instructions. Still further, we may notice that Sita Kumari is a physically handicapped candidate as well.

7. Thus, we do not find any error in the process of appointment of Respondent No. 9 Sita Kumari as Anganwadi Sevika.

8. The Letters Patent Appeal is, thus, dismissed.

(Hemant Gupta, J)

(Ahsanuddin Amanullah, J)

P.K.P./Sujit
N.A.F.R.

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