

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.4119 of 2014

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1. Rina Kumari Wife Of Chandrama Prasad Resident Of Village - Sadokhari, P.S. - Chenari, District - Rohtas At Sasaram, At Presently Working At Anganbari Sevika At Anganbari Centre No. - 62 of Sadokhar Gram Panchayat, P.S. - Chenari, District - Rohtas at Sasaram

.... Petitioner/s

Versus

1. The State Of Bihar
2. The Divisional Commissioner, Patna
3. The District Magistrate, Rohtas at Sasaram
4. The District Programme Officer, Rohtas At Sasaram
5. The Director, Department Of Social Welfare, Bihar, Patna
6. The Sub-Divisional Magistrate, Sasaram, District - Rohtas
7. The Child Development Programme Officer, Chenari, District - Rohtas
8. The Mukhia, Sadokhar Gram Panchayat, P.S. - Chenari, District - Rohtas
9. Mrs. Lalsa Devi Wife of Binda Paswan Resident of Village - Sadokhar, P.S. - Chenari, District - Rohtas

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Kamala Kant Upadhyay
Mr Chandra Bhushan Das

For the Respondent/s : Mr. S.K.Ghosh, Sr. Advocate
Mr Dharmendra Kumar
Mr AC to GP 1

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CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI

ORAL JUDGMENT

Date: 19-02-2016

Obviously, engagement as an Anganbari Sevika is a very very paying proposition, otherwise litigations against such selection or non- selection will not travel up to the High Court time and again and legal battles would not be fought for every inch of space which is available. How much benefit the target beneficiaries are deriving from such social schemes has already been dealt with or brought to the notice of the Hon'ble Apex Court in the reports produced before

it. The Court does not have to repeat the non-efficiency in the delivery system in actual implementation.

This is third round of litigation in relation to a selection made on the post of Angarbari Sevika in Gram Panchayat Sadokhar, PS Chenari in the district of Rohtas. The selection was supposedly made on 29.10.2004 on the basis of majority vote in the Aam Sabha.

The legal battles started thereafter. The details are not required to be gone into but the Court must take notice of the last of the order passed in the writ application of private respondent no.9, namely, Smt. Lalsa Devi, whose writ came to be numbered as CWJC No.1603 of 2012 and decided on 10.2.2012. A copy of the said decision is Annexure- 8 to the writ application. In that writ, the selection of the present petitioner was assailed. The Court took notice of the materials brought before it including certain report of the Sub Divisional Officer dated 12.12.2008 with regard to the manner in which the selection on Aanganbari Centres was conducted. The Court dealt with the matter relating to the present centre and has taken note of the fact that large scale irregularities were committed by Mukhiya and Secretary of the Gram Panchayat in such selection including that of the petitioner. Even a direction for institution of an FIR was issued. The Court, therefore, taking into consideration the above materials relegated the private respondent and the present petitioner to

agitate the issue before the Divisional Commissioner and bring it to his notice the above significant fact.

Earlier the order of the Divisional Commissioner had gone in favour of the present petitioner but since the Divisional Commissioner was not aware of those materials, which were talked about by the learned Single Judge in his order contained in Annexure- 8, he went into the entirety of the matter afresh and held that the private respondent Lalsa Devi was illegally not selected and appointed even though she had a better claim, being more educated as she was an Intermediate and the petitioner only a Matriculate. The order of the Divisional Commissioner passed in Misc. Appeal No.382 of 2012 dated 19.9.2013/ 13.1.2014 (Annexure- 9) is being assailed by the present petitioner since she has been ousted and the private respondent appointed.

Rather attractive submission was made on behalf of the petitioner that the Divisional Commissioner has passed the order without giving any opportunity of hearing to the petitioner.

On the last occasion when the matter was taken up, the Court gave an opportunity to the petitioner to bring on record evidence with regard to non-service of notice or communication. Today, a reply on behalf of the petitioner to the counter affidavit on behalf of respondent no.9 has been filed. Now, a plea is taken that

notices had gone but it was sent not by registered post but by ordinary post and the petitioner denies having received any communication in this regard.

Nothing more has been said with regard to the said issue. This Court is not willing to accept the plea of non- service of notice or information upon the petitioner on a bald denial. Taking into consideration as noticed above that she has fought the legal battle at every stage on many an occasion and following every procedure closely, obviously effort is on the part of the petitioner to further delay the enforcement of the order which has gone against her on this alone ground.

The next limb of argument of learned counsel for the petitioner is that in terms of the guidelines, the will of the majority prevails. She was selected by the majority in Aam Sabha and that creates a right in her favour. If in a democracy the will of the people was rigged by the power that be, and when there is adequate material to show that the Mukhiya and the Panchayat Secretary did so, then the Court cannot be a mute spectator to such a farce being played in the name of majority and the democracy.

Since there is no legal infirmity in the decision rendered by the Divisional Commissioner nor is there any dispute with regard to qualification of the private respondent vis- a- vis the present

petitioner, obviously selection was rigged and the match was fixed in favour of the petitioner by Mukhiya and the Panchayat Secretary. That infirmity and foul play has now been corrected by the order of the Divisional Commissioner, in the order impugned.

In view of the above, no interference is warranted. Writ has no merit. It is dismissed.

(Ajay Kumar Tripathi, J)

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