

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.639 of 2014

Arising out of

Civil Writ Jurisdiction Case No. 19859 of 2012

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Anju Singh, Wife of Rama Raman Singh, Resident of Village - Kashore, P.O. - Kashore, P.S. - Warishnagar, Block - Warishnagar, District - Samastipur.

.... Appellant/s

Versus

1. The State of Bihar through Principle Secretary, Social Welfare Department, Govt. of Bihar, Patna
2. The Commissioner, Darbhanga.
3. The District Magistrate, Samastipur
4. The District Programme Officer, Samastipur
5. The Child Development Programme Officer, Block - Warishnagar, District - Samastipur
6. Prabha Rani wife of Jyoti Kumar Singh Resident of Village - Kashore, P.O. - Kashore, P.S. - Warishnagar, Block - Warishnagar, District - Samastipur.

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Anjani Kumar Jha, Advocate.

For the State : Mr. Shiv Kumar, AC to GA-3.

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CORAM: HONOURABLE MR. JUSTICE HEMANT GUPTA

and

HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH)

Date: 21-09-2016

Heard learned counsel for the parties.

2. The challenge in the present intra Court appeal is to the order dated 10.01.2014 passed by the learned Single Bench by which C.W.J.C. No. 19859 of 2012 filed by the appellant has been dismissed.

3. The appellant, along with others including respondent no. 6, had applied for the post of *Anganbari Sevika* in the year 2007 and initially in the *Aam Sabha* held on 19.06.2007, the



application of respondent no. 6 was rejected on the ground that she is an outsider and does not reside in the area relating to the Centre No. 238, for which appointment was being made. Upon objections being raised regarding the mapping of the area, the name of the father of the respondent no. 6 was added and thereafter in the *Aam Sabha* held on 05.09.2008, the respondent no. 6 was selected as *Anganbari Sevika*. The appellant filed objection before the District Magistrate, Samastipur, which was rejected by order dated 30.07.2009. Against the said order, the appellant preferred Anganbari Case No. 14 of 2009 which was also dismissed by order dated 05.06.2012. The appellant challenged the same before the learned Single Bench in C.W.J.C. No. 19859 of 2012 and dismissal of the writ petition by order dated 10.01.2014 has given rise to the present Letters Patent Appeal.

4. Learned counsel for the appellant submitted that the respondent no. 6 was not a resident of the nutrition area related to the Centre in question and, thus, initially her family was not mentioned as one of the residents of the area and later on the addition, in terms of the order of the Child Development Project Officer (CDPO), just a few days before the *Aam Sabha* meeting, was not only erroneous but is also fraudulent, since the said Letter No. 1418 dated 29.08.2008 of the CDPO has been found to be not issued by the office of the CDPO, as per the information received under the Right to Information Act. It



was submitted that even the *Mukhiya* had not signed on the *Aam Sabha* proceeding dated 05.09.2008, which clearly indicates that there was *bona fide* and genuine objection to such appointment of the respondent no. 6. Learned counsel submitted that both the order of the District Magistrate, Samastipur and the Commissioner, Darbhanga are also unsustainable for they have not considered the vital aspect, that a person has to be resident of the nutrition area, which the respondent no. 6 was not and, thus, the appellant had to be given the first option for appointment.

5. Learned counsel for the State submitted that the submissions of learned counsel for the appellant are misconceived for the reason that the District Magistrate has got inspection made by the CDPO, Warishnagar and the report dated 14.07.2009, made after the spot visit by the CDPO, discloses that the house of respondent no. 6 falls within the nutrition area. It was further submitted that the Letter No. 1418 dated 29.08.2008, which is assailed as fraudulent by the appellant is incorrect, inasmuch as, it was written by the then BDO, who was also holding charge of CDPO, Warishnagar and, thus, information from the office of the CDPO does not reflect the correct position, as basically the incumbent was working in the capacity of BDO from where the letter appears to have been issued.

6. Having considered the rival contentions, we do not



find any merit in the present Letters Patent Appeal. The sole ground of challenge to the appointment of respondent no. 6 is that her family does not reside in the nutrition area, which stands negated by the enquiry conducted, pursuant to the order of the District Magistrate, Samastipur, in which it has been found that the respondent no. 6 also resides in the nutrition area. The fact that the respondent no. 6 has better merit compared to the appellant is also not denied. Such being the position, the order passed by the Collector and upheld by the Commissioner, cannot be faulted.

7. In view thereof, we find no ground to interfere in the order passed by the learned Single Bench dismissing the writ application and accordingly, the Letters Patent Appeal also stands dismissed.

(Hemant Gupta, J)

(Ahsanuddin Amanullah, J)

P. Kumar

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