

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.281 of 2014
Arising out of
Civil Writ Jurisdiction Case No. 3174 of 2013**

=====

Rubi Khatoon Wife Of Md. Irshad Alam Resident of Banghra, P.O.- Sahidganj,
P.S.- Bhawanipur Rajdham, District- Purnea.

.... Appellant/s

Versus

1. The State of Bihar
2. The Secretary, Department of Social Welfare, Govt. of Bihar, Old Secretariate,
Patna
3. The Director, Integrated Child Development Scheme, Indira Bhawan, East
Boring Canal Road, Patna
4. The Divisional Commissioner, Purnia Division, Purnia
5. The District Magistrate, Purnia
6. The District Programme Officer, Purnia
7. The Child Development Project Officer, Bhawanipur, Purnia

.... Respondent/s

=====

Appearance :

For the Appellant/s : Mr. Shailesh Kumar, Advocate

For the Respondent/s : Mr. Gautam Bose (AAG-8)

Mr. Rohit Mishra, Advocate.

=====

CORAM: HONOURABLE MR. JUSTICE HEMANT GUPTA

and

HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH)

Date: 15-07-2016

Heard learned counsel for the parties.

The present intra court appeal under Clause-X of
the Letters Patent of Patna High Court is directed against the
order dated 17.04.2013 passed by the learned Single Bench by
which C.W.J.C. No. 3174 of 2013 filed by the appellant has
been dismissed.

The appellant was selected for the post of
Anganbari Sevika for the Centre at Community Hall (Loria



Bhawan), Banghra in the district of Purnia, pursuant to a decision taken in the meeting on 20.09.2011 of the beneficiaries. The said selection was challenged by one Rozy Parveen before the District Magistrate, Purnia on 07.10.2011. In the meantime, the selection letter was issued in favour of the appellant on 11.10.2011. The Sub Divisional Officer, Dhamdaha and the District Programme Officer jointly enquired into the complaint and submitted their report recommending termination of the services of the appellee. The appellant submitted her reply and thereafter the District Magistrate, Purnia, by order dated 24.07.2012, cancelled the selection of the appellant as Anganbari Sevika for the said centre. The appellant challenged the order dated 24.07.2012 before the Court in C.W.J.C. No. 19980 of 2012. The writ petition was disposed off on 18.10.2012 directing the appellant to file appeal before the Divisional Commissioner, Purnia. The said Misc. Appeal No. 61 of 2012 was also dismissed by order dated 12.12.2012. The appellant preferred C.W.J.C. No. 3174 of 2013 against the order dated 12.12.2012 of the Divisional Commissioner and the same having been dismissed by the learned Single Bench on 17.04.2013 has given rise to the present Letters Patent Appeal.



Learned counsel for the appellant submits that the Child Development Project Officer, Bhawanipur (C.D.P.O.) had examined the complaint and found the selection of the appellant to be valid and the same has wrongly not been taken note of either by the Collector or the Divisional Commissioner. It is further submitted that the Divisional Commissioner had also dismissed the appeal of the appellant without calling for the entire records of the case which has resulted in erroneous order.

Learned counsel for the State submits that the initial appointment of the petitioner itself was on the basis of wrong mapping done with regard to the location of the Anganbari Centre and the said exercise by the C.D.P.O. was not done according to the prescribed guidelines which resulted in creation of 11 additional Centres in Bhawanipur Anchal to which appointments were made and, thus, the same having been found to be against the said guidelines, have been rightly set aside by the authorities. It is submitted that the wrong mapping and submission of an incorrect report led to the suspension of the concerned C.D.P.O. and in the said background the consequential action has been taken by removal of the beneficiaries, which cannot be said to be arbitrary or



illegal. It is submitted that the report of the C.D.P.O. is of no help to the appellant as it was by the same person who is the culprit in doing a false mapping leading to such illegal appointments. It is submitted that two senior district officials i.e., the Sub Divisional Officer, Dhamdaha as well as the District Programme Officer, Purnia had made a joint enquiry of each Centre and physical verification was done in the presence of the C.D.P.O. and then a report was submitted which disclosed various irregularities.

Having considered the rival contentions, we do not find any merit in the present appeal. The appellant was clearly a beneficiary of a manipulated exercised based on incorrect mapping and choice of Centre. Further, there is a clear finding of fact that better qualified person of the beneficiary area was present and available but was not chosen and the appellant has been chosen in a manner which clearly is illegal and thus her selection cannot be sustained. The appellant has also not challenged or controverted the findings of fact recorded in the joint inspection report of the Sub Divisional Officer and the District Programme Officer, which was based on physical inspection of the Centres in the presence of the C.D.P.O. Thus, taking into consideration the aforesaid

facts and circumstances of the case, we do not find any reason to interfere in the order of the authorities as well as the learned Single Bench.

Accordingly, the Letters Patent Appeal stands dismissed.

(Hemant Gupta, J)

(Ahsanuddin Amanullah, J)

P. Kumar

U			
---	--	--	--