

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.6104 of 2013

Sumitra Kumari @ Sumitra Devi Wife of Tanuk Lal Yadav, resident of village and P.O. Dharhi, in Gram Panchayat Baletha, P.S. Beldaur, District – Khagaria.

.... Petitioner/s

Versus

1. The State of Bihar.
2. The Divisional Commissioner, Munger Division, Munger
3. The District Magistrate, Khagaria
4. Sub-Divisional Officer, Gogri, Khagaria
5. District Programme Officer, Khagaria
6. Child Development Project Officer, Beldaur, District - Khagaria
7. Panchayat Secretary, Gram Panchayat Raj Baletha, P.S. Beldaur, District – Khagaria
8. Mukhiya, Gram Panchayat Raj Baletha, P.S. Beldaur, District - Khagaria
9. Suman Bharti Wife Of Sanjiv Kumar Suman resident of village and P.O. Dharhi, P.S. Beldaur, District – Khagaria.

.... Respondent/s

Appearance :

For the Petitioner/s : Mr. Dronacharya, Advocate

For the Respondent/s : Mr. Anjani Kumar, AAG-10

CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 29-03-2016

Heard learned counsel for the petitioner and the learned counsel for the State.

In this case, the petitioner is claiming that the order passed by the Divisional Commissioner, Munger in Service Appeal no. 25 of 2012 dated 05.02.2013 is illegal, as he has held that the Sub-Divisional Officer while making inquiry, has not given any hearing to Suman Bharti (Respondent no. 9) and on that ground, the order of the Collector, Khagaria was set aside and straight way direction has been given to appoint Suman Bharti on the post of Aaganbari Sevika.



It appears that five persons have applied for the post of Aaganbari Sevika for Aanganbari Centre no. 122 and the present petitioner is resident of Ward no. 15. As per the claim of the petitioner, Ward no.15 falls within the feeder area of Aanganbari Centre 122. While making consideration of selection of Aanganbari Sevika, the case of the petitioner was not considered, though she has better marks than Suman Bharti and the case of Suman Bharti was considered with another person, namely, Veena Devi who obtained 482 marks out of 900 whereas Suman Bharti has better marks than Veena Devi, accordingly, Suman Bharti was selected. A complaint was filed by the petitioner showing that she has better marks than Suman Bharti, but has wrongly been deprived of consideration though she belongs to the feeder area of Aanganbari Centre no. 122 so much so that Suman Bharti has obtained the appointment on the basis of two mark-sheets were issued in the same year.

The Sub-Divisional Officer during inquiry, arrived to a conclusion that one of the certificate is completely forged, on that ground, the Collector arrived to a finding against Suman Bharti, but it was set aside on the ground that while making inquiry, no opportunity of hearing was given to Suman Bharti.

The learned Commissioner is correct with regard to granting of an opportunity of hearing to Suman Bharti but so far giving straight

way direction for appointment of Suman Bharti without examining the merit of case cannot be held justified, as best person has to be selected among the candidate who had applied, against the post.

In such view of the matter, the order of Collector dated 09.02.2012 passed in Misc. Case no. 40/2008-09 as well as the order of Commissioner dated 05.02.2013 passed in Service Appeal no. 25/2012 are set aside and matter is remanded to the Collector to decide the case of present petitioner after giving proper opportunity of hearing to Suman Bharti. The Collector will complete its process within a period of six months from the date of receipt/production of a copy of this order.

With the aforesaid observation/direction, this petition is allowed to the aforesaid extent.

(Shivaji Pandey, J)

siddharth/-Mahesh

U			
---	--	--	--