

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.6641 of 2011

Shila Devi aged about 37 years, wife of Shri Yog Narayan Yadav, resident of village - Bakshahi, Grampanchayat Raj- Ghonghaur Block - Babubarhi, P.S. Babubarhi, District - Madhubani

.... Petitioner

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna
2. The Principal Secretary, Social Welfare Department, Government of Bihar
3. The Director, Integrated Child Development Scheme, Bihar, Patna
4. Commissioner Madhubani, Dist. Darbhanga
5. Collector, Madhubani, Dist- Madhubani
6. District Program Officer, Madhubani Dist- Madhubani
7. Child Development Program Officer, Babubarhi, Dist- Madhubani
8. Block Development Officer, Babubarhi, Dist- Madhubani

.... Respondents

Appearance :

For the Petitioner/s : Mr. Kedar Jha, Adv.

For the Respondent/s : Mr. Anshuman Singh, GP-24

CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR

ORAL JUDGMENT

Date: 22-04-2016

Heard Sri Kedar Jha, learned counsel for the petitioner and Sri Anshuman Singh, learned Govt. Pleader no.24.

2. The petitioner, invoking writ jurisdiction of this Court under Article-226 of the Constitution of India, has prayed for quashing of part of notice (contained in Annexure-19 of the writ petition) to the extent of Serial no.6 i.e. in relation to Babubarhi Project. Further prayer has been made to appoint the petitioner as Sevika, which was illegally occupied by one Raj Kumari Devi. The petitioner has further prayed for directing the Respondents to appoint

her as Sevika.

3. It has been pleaded that in the year 2004 in respect of selection in Centre no.161, Gram Panchayat Raj, Chongaur, Block-Babubarhi, district-Madhubani, the petitioner had applied for the post of Sevika as well as Sahayika. However, one Raj Kumari Devi was selected as Sevika , whereas the petitioner was appointed as Sahayika. A plea has been taken that said Raj Kumari Devi on the basis of forged certificate had got her appointment as Sevika. Subsequently, the husband of the petitioner raised objection and even the petitioner also filed an application before the Chief Secretary, Govt. of Bihar making complaint in respect of illegal appointment of Raj Kumari Devi. A plea has been taken that under right to information act, the husband of the petitioner got information that Raj Kumari Devi had produced forged certificate. Accordingly, it has been pleaded in the writ petition to direct the Respondents to cancel appointment of Raj Kumari Devi and appoint the petitioner on the post of Sevika.

4. In this case, counter affidavit and supplementary counter affidavit have been filed on behalf of the Respondents. In the counter affidavit, a plea has been taken that in the year 2004 recruitment of Sevika and Sahayika was made pursuant to guidelines issued in the year 1998. Learned State Counsel submits that after receipt of complaint, the Respondent State tried to get information

from Bihar Sanskrit Shiksha Board regarding alleged certificate of Raj Kumari Devi.

5. Learned counsel for the State submits that subsequently a report was also received indicating that the certificate produced by Raj Kumari Devi was not genuine. However, in the meanwhile, Raj Kumari Devi resigned from the post of Sevika. Sri Anshuman Singh, learned counsel for the State further submits that the advertisement vide Annexure-19 was published for appointment of Sevika and Sahayika in number of Anganbari Centres, which includes centre of Babubarhi Project. In the name of Babubarhi, which is at Serial no.6, there were number of vacancies of Sevika and Sahayika. The petitioner pursuant to the advertisement has also applied. Thereafter, the present writ petition was filed.

6. It has been argued by learned counsel for the State that the Advertisement i.e. Annexure-19 has been issued pursuant to guidelines for appointment of Sevika and Sahayika of the year 2010 and, as such, the petitioner may not claim any right in respect of appointment, which was made in the year 2004 itself. Moreover, it has been argued that save and except Annexure-11, which was filed by the petitioner on 20.07.2010 before the Chief Secretary, on the basis of pleadings, it appears that the husband of the petitioner was earlier filing representations.

7. Learned counsel for the petitioner submits that in view of guidelines of 2006, there was provision that any villager was having right to raise objection, in case any illegality was committed.

8. Besides hearing learned counsel for the parties, I have also perused the materials available on record. Fact remains that in the present writ petition, which was filed in the year 2011, the petitioner had virtually made a prayer for appointing her on the basis of selection process, which was ensued and completed in the year 2004 itself. There is nothing on record to suggest that the petitioner had filed any application prior to letter dated 20.07.2010. However, a specific stand was taken in paragraph-9 of the counter affidavit that after the post fell vacant in different Blocks, the posts were advertised. The petitioner had also applied for the said post but due to ensuing Panchayat Election, the selection process could not be completed. The petitioner had filed rejoinder to the counter affidavit but fact that she had applied pursuant to advertisement has not been disputed. Even at the time of argument, learned counsel for the petitioner accepts that the petitioner has already applied.

9. In view of facts and circumstances, particularly the fact that the advertisement has been published pursuant to new guidelines of 2010 and the petitioner also applied for the said post, after such a long time, from the date of cause of action, which

according to the petitioner arose in the year 2004 itself, same issue may not be allowed to be raised as such belated stage. Moreover, in sum and substance, the petitioner has claimed for cancelling the appointment of Raj Kumari Devi, who has not been impleaded as party in the present writ petition and, as such, in any event in absence of person, who is supposed to be aggrieved, no order can be passed in the present writ petition.

10. I do not find any merit in the writ petition. The writ petition stands dismissed.

(Rakesh Kumar, J)

NKS/-

AFR/NAFR	
CAV DATE	
Uploading Date	27-04-2016
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