

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No. 687 of 2015

Arising out of

Civil Writ Jurisdiction Case No. 3279 of 2015

Puja Kumari, Wife of Pramod Paswan, Resident of village + P.O.- Merhkuri, P.S. + Block - Meskaur, District - Nawadah.

.... Petitioner- Appellant/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Social Welfare, Govt. of Bihar, Patna.
2. The Director, I.C.D.S., Bihar, Patna.
3. The Deputy Director (Welfare), Magadh Division, Gaya.
4. The District Magistrate, Nawadah.
5. The District Programme Officer, Nawadah.
6. The Child Development Project Officer (C.D.P.O.), Block - Meskaur, District - Nawadah.
7. Manju Kumari, Wife of Somnath Rajbanshi, Resident of village + P.O.- Merhkuri, P.S.+ Block - Meskaur, District - Nawadah.

....Respondent/s- Respondent/s

Appearance :

For the Appellant/s	:	Mr. Arun Kumar, Advocate
For the State	:	Mr. Ajeet Kumar, S.C. 28
		Mr. Arvind Kumar, A.C. to S.C. 28.

CORAM: HONOURABLE MR. JUSTICE HEMANT GUPTA

and

HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH)

Date: 13-07-2016

Heard learned counsel for the parties.

The challenge in the preset intra-court appeal under Clause- X of the Letters Patent of Patna High Court is directed against the order dated 03.03.2015 passed by the learned Single Bench by which C.W.J.C. No. 3279 of 2015, filed by the appellant has been dismissed.

The appellant was selected as Sevika in the Gram / Aam Sabha held on 11.06.2013 in the Anganwari Centre at



village-Merhkuri under Ward No. 9 in Gram Panchayat Raj, Bijubigha. On 30.09.2013, the respondent no. 7 submitted complain before the District Magistrate, Nawadah which was sent to the District Programme Officer, Nawadah for necessary action. By order dated 17.02.2014, the District Programme Officer, Nawadah cancelled the selection of the appellant on the ground that the name of the husband of the appellant is mentioned in the voter list of Ward No. 10 whereas the resident of Ward No. 9 had to be given preference as the centre was in Ward No. 9. The appeal preferred by the appellant before the Deputy Director (Welfare), Magadh Division was also rejected on 27.01.2015. The same was assailed in C.W.J.C. No. 3279 of 2015 before the learned Single Bench and dismissal of the writ petition has given rise to the present appeal.

Learned counsel for the appellant submits that the ground for cancelling the selection of the appellant is erroneous since the name of the appellant as well as the father-in-law is in Ward No. 9 and just because the name of the husband of the appellant is in Ward No. 10, would not have changed the situation. It is submitted that the house of the appellant's in-laws falls both in Wards No. 9 and 10 and thus the husband of the appellant has been shown to be the resident of Ward No. 10 though she has been shown as a resident of Ward No. 9, for which the selection was made.



Learned counsel further submits that as per the guidelines issued, as there were only four applicants, the other three, including the respondent no. 7, being ineligible, the selection of the appellant was quite legal. Learned counsel submits that the appellant having been married in a family which resides in Ward No. 9, her appointment has wrongly been cancelled by the authorities.

Learned counsel for the State submits that the District Programme Officer, Nawadah has clearly mentioned in his order dated 17.02.2014 that the appellant was resident of Ward No. 10 and the resident of Ward No. 9 had to be given preference in such selection and there being other candidates available who were resident of Ward No. 9, the selection was not proper. It is submitted that there is also a finding of there being interpolation in the register maintained relating to proceeding of the Gram Sabha which created *bona fide* doubt with regard to the appellant being selected on the said post.

Having considered the rival contentions, we do not find any merit in the present appeal. The appellant not denying the fact that the appointment had to be made of a person who was resident of Ward No. 9 and also that the husband of the petitioner has been shown to be a resident of Ward No. 10, the natural presumption is that she also resides with her husband. Furthermore, the finding

recorded by the District Programme Officer, Nawadah, upon going through the proceedings of the Gram Sabha, that the same were recorded in two different handwritings also indicate that the said proceedings are not worth relying upon. Thus, in view of there being serious doubts raised, both relating to the eligibility of the appellant and the manner in which the Gram / Aam Sabha was conducted and the appellant selected, the decision of the authority concerned to cancel the selection of the appellant cannot be said to be arbitrary or unreasonable.

For the reasons aforesaid, we do not find any ground to interfere in the order of the learned Single Bench dismissing the writ petition.

Accordingly, the Letters Patent Appeal stands dismissed.

(Hemant Gupta, J.)

(Ahsanuddin Amanullah, J.)

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