

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.2156 of 2015
IN
Civil Writ Jurisdiction Case No. 1749 of 2015

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1. Nitu Kumari Wife of Sri Ajay Kumar, Resident of Village -
Jhapahan, Tola - Gangri Bishunpur, P.O. - Jhapahan, P.S. -
Ahiyapur, District - Muzaffarpur.

.... Appellant/s

Versus

1. The State of Bihar
2. District Magistrate, Muzaffarpur.
3. Sub-Divisional Officer (East) Bochahan, Mushahri, Muzaffarpur.
4. Then Child Development Project Officer, Mushahri Block, District -
Muzaffarpur.
5. Mukhiya, Gram Panchayat Raj Jhapahan, P.S. + P.O. - Jhapahan,
District - Muzaffarpur.
6. Panchayat Secretary, Gram Panchayat Raj, Jhapahan, P.S. + P.O. -
Jhapahan, District - Muzaffarpur.

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Shashi Bhushan Kumar

For the Respondent/s : Mr. MANISH KUMAR- GP8

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CORAM: HONOURABLE THE ACTING CHIEF JUSTICE

and

HONOURABLE JUSTICE SMT. ANJANA MISHRA

(JUDGMENT AND ORDR)

ORAL

(Per: HONOURABLE THE ACTING CHIEF JUSTICE)

Date: 28-03-2016

Heard Mr. Shashi Bhushan Kumar, learned Counsel,
appearing on behalf of the appellant, and Mr. Prabhat Kumar, learned
Assistant Counsel to Government Pleader No.8, appearing on behalf
of the State-respondents.

By filing a writ petition, under Article 226 of the

Constitution of India, the present appellant, as a writ petitioner, sought for quashing of the guidelines issued by the State Government in the year 2011, as well as the amended guidelines, in this regard, framed in the year 2016, for selection of Anganbari Sevika/Sahayika.

With the help of his writ petition, which gave rise to CWJC No.1749 of 2015, the petitioner had also prayed for quashing of the order, dated 30.04.2014, passed by respondent No.4, namely, Child Development Project Officer, Mushahri Block, Muzaffarpur, whereby petitioner's candidature had been rejected on the ground that the petitioner's brother is also engaged as Panchayat Teacher.

Pending the writ petition, I.A. No.985 of 2015 was filed, in CWJC No.1749 of 2015, by the writ petitioner seeking stay of the appointment of Anganbari Sevika, in the Anganbari Centre No.6, at Jhapha Panchayat, issued vide Memo No.31, dated 28.01.2015, till disposal of the writ petition.

By the order, under appeal, dated 03.09.2015, a learned single Judge of this Court has rejected the prayer for stay on the ground that passing of any interim order would amount to allowing the writ petition itself. Aggrieved by the order, dated 03.09.2015, this appeal has been preferred by the appellant.

Having regard to the fact that the petitioner had merely prayed for an interim direction for stay of appointment of Anganbari Sevika in the Anganbari Centre No.6, at Jhapha Panchayat, we are of

the view that the prayer was not such, which would have, if allowed, amounted to allowing the writ petition itself inasmuch as an interim order could have merely made the appointment of Anganbari Sevika, in the Anganbari Centre No.6, at Jhapha Panchayat, subject to the outcome of the writ petition.

Considering, therefore, the matter in its entirety and in the interest of justice, while setting aside the order, under appeal, we hereby direct that the appointment of Anganbari Sevika, in the Anganbari Centre No.6, at Jhapha Panchayat, shall be subject to the outcome of the writ petition and the person, who may come to be appointed as the Anganbari Sevika or who may have been appointed as Anganbari Sevika, shall be informed about the interim order, which we have passed hereinbefore. We also direct that in case anyone has been appointed as Anganbari Sevika, she shall be impleaded as one of the party respondents in the writ petition before the writ petition is heard and disposed of.

With the above observations and directions, this appeal shall stand disposed of.

(I. A. Ansari, ACJ)

(Anjana Mishra, J)

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