

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.665 of 2014
IN
Civil Writ Jurisdiction Case No. 19686 of 2012**

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Renu Kumari, wife of Daya Kumar, resident of village Bhurkur, P.S. Hilsa,
District- Nalanda.

.... Petitioner/Appellant.

Versus

1. The State of Bihar.
2. The Principal Secretary, Department of Welfare, Government of Bihar, Patna.
3. Commissioner, Patna Division, Patna.
4. District Magistrate-cum-Collector, Nalanda.
5. Sub-divisional Officer, Hilsa.
6. District Programme Officer, Nalanda.
7. Child Development Project Officer, Hilsa.

.....Respondent 1st Set.

8. Sabuja Devi, wife of Dev Ratan Prasad @ Dev Ram Prasad, resident of village
Bhurkur, P.S. Hilsa, District-Nalanda.

.... Respondents/Respondents.

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Appearance :

For the Appellant : M/s. Imteyaz Ahmad, Ajay Kr. Thakur & Ms.Babita,
Advocates.

For the State : Mr. S. Rahman, AC to GP-24

For the Respondent No.8 : Mr. Sanjay Sinha, Advocate.

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CORAM: HONOURABLE MR. JUSTICE RAMESH KUMAR DATTA

and

HONOURABLE MR. JUSTICE RAJENDRA KUMAR MISHRA

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE RAMESH KUMAR DATTA)

Date: 09-11-2016

Heard learned counsel for the appellant, learned counsel
for the State and learned counsel for respondent no.8.

2. This appeal is directed against the order dated
31.03.2014 passed by the writ court in C.W.J.C. No.19686 of 2012
filed by the writ petitioner/appellant Renu Kumari and one analogous
writ petition bearing C.W.J.C. No.22883 of 2012 filed by the



respondent no.8 Sabuja Devi.

3. The writ petition was directed against the order dated 27.09.2012 passed by the Collector, Nalanda, by which he had cancelled the appointment of the writ petitioner Renu Kumari as an Anganwari Sewika of Anganwari Centre Bhurkhur under Hilsa Block, District-Nalanda. The said decision was taken on the complaint filed by the respondent no.8. The Collector came to the conclusion on the basis of the fact that in Anganwari Centre Bhurkhur, there were 47 houses of backward classes and 75 houses of extremely backward classes and in terms of the prevailing departmental circular the selection was to be made from the majority class, whereas the writ petitioner had been selected and appointed on 03.12.2003 although she belonged to the backward class and not the extremely backward class. The appointment of the writ petitioner was cancelled with immediate effect and the direction was given to the Child Development Project Officer, Hilsa, to make fresh selection in accordance with law in the light of the departmental guidelines 2011 and, therefore, the writ petitioner had filed C.W.J.C. No.19686 of 2012, which has been dismissed, as stated above.

4. Learned counsel for the appellant/writ petitioner has made submission that, in fact, the appellant belongs to Ward No.7 where the Anganwari Centre Bhurkhur was located, whereas the



respondent no.8 belongs to Ward No.8 and so far as the departmental guidelines 1998, is concerned, the requirement for selection is from the place where the Anganwari Centre is located. In the said Ward No.8, the houses of the majority of backward classes are located. Thus, the selection of the appellant was justified.

5. Learned counsel for the respondent no.8, on the other hand, has made submission that the guideline for selection is from the families of the beneficiaries area and at the relevant time, the Anganwari Centre had not been organized on the basis of ward, which was done later on by the circular dated 14.12.2011. It is further submitted that the Anganwari Centre Bhurkhur, caters to the area for which the details of the families have been given in the counter affidavit as also published by the Collector in his order impugned in the writ petition. Thus, the stand of the writ petitioner regarding backward classes being in the majority in Ward No.7 has no relevance so far as the selection in the year 2003 is concerned.

6. Learned counsel for the State supports the aforesaid stand made on behalf of the respondent no.8 and submits that the writ petitioner had been selected on the basis of the guideline that was prevailing for the Angwarwari Centre and the area of the Anganwari Centre at the relevant time.

7. Having considered the facts and circumstances of the



case and the materials available on the record, this Court does not find any force in the submission of the learned counsel for the appellant, rather it is evident from the order dated 27.09.2012 passed by the Collector that in the Anganwari Centre Bhurkhur, the majority belong to the extremely backward class.

8. It is true that there were several applicants from the backward class whereas the respondent no.8 was the sole applicant belonging to the extremely backward class in view of the population of the Anganwari Centre, Bhurkhur, at the relevant time and the writ petitioner could not have been appointed as Anganwari Sewika. Thus, the order of the Collector is justified.

9. At this stage, learned counsel for the appellant submits that the writ petitioner/appellant has continued on the post of Anganwari Sewika till today and since working of Anganwari Sewika is now on the basis of ward and according to the assertion of learned counsel for the appellant the backward class constitute the majority of the houses in Ward No.7, therefore, if any fresh selection is made on the basis of Anganwari Centre in the ward where the writ petitioner resides, the benefit of the relaxation of age may be provided to her. The same benefit is claimed by the respondent no.8 in respect to the concerned Anganwari Centre stating that she has been pursuing the matter from the very beginning.



10. In the light of the aforesaid discussions, the appeal is dismissed. However, it is directed that in case any process of fresh appointment is initiated, the writ petitioner Renu Kumari as also respondent no.8 Sabuja Devi may be given the benefit of age relaxation in respect of the Anganwari Centre for which they are entitled to apply for the said post.

(Ramesh Kumar Datta, J)

(Rajendra Kumar Mishra, J)

P.S./-/Bhardwaj

AFR/NAFR	NAFR
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