

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.1620 of 2017

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Nahid Sultana, W/o Abrar Ahamad, R/o Mohalla - Hazipur, Ward No. 1, P.O. +
P.S. - Rafiganj, Distt. – Aurangabad.

.... Petitioner/s

Versus

1. The State of Bihar through its Secretary Social Welfare Department, Govt. of Bihar, Patna.
2. The District Magistrate, Aurangabad.
3. The District Welfare Officer, Aurangabad.
4. The District Program Officer, Aurangabad.
5. The District Development Commissioner, Aurangabad.
6. The Child Development Project Officer, Block- Rafiganj, Aurangabad.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Gautam Kumar Yadav Advocate

For the Respondent/s : Ms. Kumari Amrita, GP-3

Mr. Rajesh Kumar, AC to GP-3

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

ORAL JUDGMENT

Date: 07-03-2017

Heard Mr. Gautam Kumar Yadav, learned counsel
appearing for the petitioner and Ms. Kumari Amrita, learned
Government Pleader No.3 for the State.

A rather unfortunate situation exist in the present case
where an eligible candidate for consideration to the post of Anganwari
Sevika of Centre Code No.249 at Devi Asthan, Hajipur, Nagar
Panchayat, Rafiganj in the district of Aurangabad has lost her
candidature by reason of delay by the respondents in completing the
selection process for the post.

The delay by the respondents stands supported by the fact
that the post was first advertised in the year 2011 and when the petitioner
applied on 15.7.2011 as manifest from Annexure-1. The process was



abandoned midway. The second advertisement for the same appointment came in the year 2013 bearing Advertisement No.01/2013 and against which again the petitioner applied vide Annexure-2 on 17.9.2013. The date of Aam Sabha was fixed on 23.5.2015 for holding selection as manifest from Annexure-3. The Aam Sabha however did not take place and again the selection process was abandoned. The reasons for abandonment of the two selection processes so initiated are unknown and even when the maximum age for a candidate applying for appointment as Anganwari Sevika was enhanced from 33 years to 40 years, by the delayed action of the respondents, the petitioner has crossed the prescribed age on 26.6.2014 as manifest from the certificate issued by the Bihar School Examination Board present at Annexure-7 to the supplementary affidavit filed in the present proceeding which certifies her date of birth as 26.6.1974. The petitioner came to know about the abandonment when no action was taken to fix the date of Aam Sabha in the selection process initiated vide Advertisement No.01/2013 when she got knowledge about the Advertisement No.02/2016 impugned at Annexure-5 issued on 24.12.2016 under the signature of the District Magistrate, Aurangabad which also includes the centre in question at serial no.69. Though the maximum age prescribed is 40 years in terms of the stipulation present in the advertisement but the petitioner has crossed the maximum age. The grievance of the petitioner is that for the reasons entirely attributable to the respondents that she is deprived of consideration.



A counter affidavit is filed and though some kind of explanation is given for the delayed action attributing it to mapping work being carried out but there is no explanation as to the decision taken on the two advertisements issued in the year 2011 and 2013 and why the same were abandoned. Once a selection process is initiated by the State, its abandonment has to be for valid reason and by a competent authority. Both are missing in the present case.

Ms. Amrita, learned Government Pleader No.3 has though tried to refer to some amendments incorporated in 2015 in the Guidelines issued vide Annexure-C to the counter affidavit to submit that if no appointments are made within one year of the advertisement, the same would lapse but what I find is that though the amendments relied upon was issued on 7.8.2015 but since thereafter new guidelines have been issued on 5.4.2016 under which the advertisement in question has been issued.

Ms. Amrita has next invited the attention of this Court to an order issued for stay of the selection process present at Annexures 'A' and 'B' of the counter affidavit but that would make matters even worse for the respondents because it confirms that the selection initiated vide Advertisement No.01/2013 was merely stayed and thus could not have been abandoned. In other words the selection process initiated vide Advertisement No.01/2013 has to be taken to its logical conclusion.

Be that as it may, considering that there has been no laches on the part of the petitioner in applying for consideration to the post of



Anganwari Sevika rather the reasons are entirely attributable to the respondents in delaying the process, the selection process so initiated vide Advertisement No.01 of 2013 have to be taken to its logical conclusion by a decision thereon and cannot be abandoned midway.

In the circumstances discussed I direct the respondent authorities to conclude the selection process initiated vide Advertisement No.01/2013 and consider all the applicants who had applied against the said post, in accordance with law preferably within 3 months of receipt/production of a copy of this order. The advertisement bearing Advertisement No.02/2016 present at Annexure-5 to that extent stands modified and the centre in question stands excluded from the said advertisement.

The writ petition is allowed.

(Jyoti Saran, J)

SKPathak/-

AFR/NAFR	AFR
CAV DATE	NA
Uploading Date	20-03-2017
Transmission Date	NA

