

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.11219 of 2016

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1. Kumari Beauty W/o Randhir Kumar Rana R/o Muhalla - Panchaga Chiya Ward
No. 14, P.S. Murliganj, District - Madhepura

.... Petitioner/s

Versus

1. The State of Bihar through the Secretary, Social Welfare Department
Government of Bihar, Patna
2. The Director of Integrated Child Development Services, Bihar, Patna
3. The Commissioner, Koshi Division, Saharsa
4. The District Magistrate, Madhepura
5. The District Welfare officer, District Madhepura
6. The District Programme officer, District Madhepura
7. The Child Development Project officer, Block Murliganj, District Madhepura
8. The Nagar Panchayat, through its Executive officer, Nagar Panchayat, Murliganj,
District Madhepura
9. The Executive officer, Nagar Panchayat, Murliganj, District Madhepura
10. The Ward Commissioner Ward No. 14, Murliganj, District Madhepura
11. Smt. Manti Kumari W/o Sri Arbind Kumar Yadav R/o Muhalla -
Panchagachiya, Ward No. 14, Murliganj, District - Madhepura

.... Respondent/s

with

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Civil Writ Jurisdiction Case No. 7407 of 2016

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1. Manti Kumari Wife of Arbind Yadav Resident of Village - Panchgachhiya, P.S. -
Murliganj, District - Madhepura.

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Social Welfare Department,
Government of Bihar, Patna.
2. The Director, ICDS, Social Welfare Department, Government of Bihar, Patna.
3. The Commissioner, Koshi Division, Saharsa.
4. Collector-cum-District Magistrate, Madhepura.
5. Deputy Development Commissioner, Madhepura.
6. District Programme Officer, Madhepura.
7. Child Development Project Officer, Murliganj, District - Madhepura.
8. Beauty Kumari @ Kumari Beauty Wife of Randhi Kumar Rana Resident of
Village - Panchgachhia, Ward No. 14, P.S. - Murliganj, District - Madhepura.

.... Respondent/s



Appearance :

(In CWJC No.11219 of 2016)

For the Petitioner/s : Mr. Nawal Kishore Singh, Adv.

For the Respondent/s : Mr. Rajesh Kumar, G.P.19

(In CWJC No.7407 of 2016)

For the Petitioner/s : Mr. Suraj Narayan Yadav, Adv.

For the Respondent/s : Mr. Madhukar Krishna Sinha, S.C.1

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

ORAL JUDGMENT

Date: 07-09-2017

Heard Mr. Nawal Kishore Singh learned counsel for the petitioner in C.W.J.C.No.11219 of 2016, Mr. Suraj Narayan Yadav, learned counsel for the petitioner in C.W.J.C.No.7407 of 2016 who is also respondent no.11 in the first writ petition and learned counsel for the State appearing in both the writ petitions.

With the consent of the parties, the writ petitions have been heard with the view to final disposal at the stage of admission.

The two writ petitioners are aggrieved by the order dated 31.12.2015 passed by the Director, Integrated Child Development Services (hereinafter referred to as 'I.C.D.S.') Bihar, Patna whereby in purported compliance of the order passed by this Court in C.W.J.C.No.14378 of 2011 filed by the writ petitioner Manti Kumari, the Director, I.C.D.S. while sitting in appeal over the order of the District Magistrate dated 14.7.2011, has upheld the contention of objector Manti Kumari to hold that the appointment of the petitioner Kumari Beauty was illegal and thus has proceeded not only to cancel



her appointment but to direct the District Programme Officer to initiate fresh proceeding for appointment of Anganbari Sevika. While the petitioner in the first writ petition Kumari Beauty is aggrieved by the cancellation of her appointment by the Director, I.C.D.S., by the order dated 31.12.2015 impugned at Annexure-13 to the first writ petition, the same order is being questioned by the petitioner in the second writ petition Manti Kumari being aggrieved by the direction given to the District Programme Officer to proceed afresh for making selection of the Anganbari Sevika and not entertaining her claim for reinstatement.

For the sake of convenience, I shall be referring to the pleading made in the first writ petition i.e. C.W.J.C.No.11219 of 2016 unless clarified with specific reference to the 2nd writ petition.

The detailed facts leading to the filing of the writ petitions in question stands noted in the order passed on 19.7.2016 in C.W.J.C.No.11219 of 2016 and briefly stating is that the petitioner in the second writ petition Manti Kumari was initially appointed as Anganbari Sevika, Anganbari Kendra Ward No.14, Centre No.13, Murliganj Nagar Panchayat in the district of Madhepura in the year 2007. Her appointment was questioned by the petitioner Kumari Beauty which resulted in the order dated 14.7.2011 of the Collector-cum- District Magistrate, Madhepura placed on record vide



Annexure-1 to the writ petition. The claim of the petitioner Kumari Beauty of denial of opportunity in participation in the selection process, was upheld and the District Magistrate- cum- Collector while cancelling the appointment of the petitioner in the second writ petition Manti Kumari, directed the District Programme Officer to hold selection afresh under this supervision. While the petitioner Kumari Beauty came before this Court being aggrieved by the said order in C.W.J.C.No.13648 of 2011, the other petitioner Manti Kumari went in appeal before the Commissioner, Koshi Division. The order passed on the writ petition of Kumari Beauty is on record at Annexure-2 to the writ petition and a Coordinate Bench did not find any reason to interfere with the order of the District Magistrate, Madhepura in directing for fresh selection process. The writ petition was accordingly disposed of vide order passed on 15.10.2011.

On the other hand, the challenge to the order of the District Magistrate, Madhepura by the second petitioner Manti Kumari before the Commissioner also did not meet with any success for the Commissioner, Koshi Division Saharsa did not find any reason to interfere therewith. A copy of the order passed by the Commissioner, Koshi Division has been enclosed at Annexure-7 to the second writ petition. Feeling aggrieved, Manti Kumari came before this Court in C.W.J.C.No.14378 of 2011 and a Coordinate bench of this court while



disposing the writ petition issued direction to the Director, I.C.D.S. to decide the appeal of the petitioner Manti Kumari within a month of receipt /production of a copy of the order even though no such appeal was filed by the petitioner Manti Kumari before the Director, I.C.D.S. nor any such appeal was pending before him. In other words, the order of the Collector dated 14.7.2011 though challenged by the petitioner Kumari Beauty as well as the petitioner in the second writ petition Manti Kumari before different forums was not interfered with either by the statutory authority or by this Court and thus had attained finality.

It is on complete misreading of the order of this Court passed in C.W.J.C.No.14378 of 2011 that the petitioner in the second writ petition on disposal of her writ petition, preferred an appeal before the Director, I.C.D.S., a copy of which is present at Annexure-9 to the second writ petition even though under the guidelines in force at the relevant time, no further appeal lay against the order of Commissioner before the Director, I.C.D.S. nor any liberty had been granted to the second petitioner by this Court to file any such appeal.

On the other hand, the Director, I.C.D.S. without bothering to satisfy himself on the directions so present in the order of this Court in C.W.J.C.No.14378 of 2011 has mechanically proceeded to assume jurisdiction over the matter even though the guidelines do not confer



any such jurisdiction on him and has proceeded to pass the order dated 31.12.2015 to unsettle a selection process which had been initiated in the meanwhile following the order of the District Magistrate dated 14.7.2011 in which the petitioner in the first writ petition Kumari Beauty had participated and got selected while the petitioner in the second writ petition Manti Kumari did not choose to participate. It is surprising that even though the Collector's orders was not interfered with either by this Court or the Commissioner yet the Director, I.C.D.S. acting wholly without jurisdiction, has chosen to sit in appeal over the order of the Collector and affirmed by the Commissioner, to set aside the selection process in which Kumari Beauty has been appointed and to direct for a fresh selection process. The exercise of power by the Director, I.C.D.S. besides being wholly without jurisdiction, is also lacking in application of mind for the direction to hold a selection process afresh issued by the Director, I.C.D.S., had already taken place under the order of the District Magistrate, Madhepura dated 14.7.2011 and in which selection process, Kumari Beauty was appointed and no infirmity has been found by the Director, I.C.D.S. in the selection process so initiated following the order of the District Magistrate dated 14.7.2011 to result in the appointment of Kumar Beauty.

An additional factor which renders the order void is that even



when the Director, I.C.D.S. has proceeded to cancel the appointment of the petitioner Kumari Beauty he has not even bothered to issue notice to her.

The violations committed by the Director, I.C.D.S. are multiple rendering the order dated 31.12.2015 passed by him illegal and which is accordingly quashed and set aside. The petitioner Kumari Beauty is reinstated on her post.

In consequence while C.W.J.C.No.11219 of 2016 is allowed, C.W.J.C.No.7407 of 2016 is disposed of.

(Jyoti Saran, J)

Bibhash/-

AFR/NAFR	AFR
CAV DATE	NA
Uploading Date	22.09.2017
Transmission Date	NA

