

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.271 of 2017

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Aruna Kumari, Wife of Vijay Singh, Resident of Village- Pirwan, Police Station- Gurua, District- Gaya.

.... Petitioner

Versus

1. The State of Bihar, through Principal Secretary of Social Welfare Department, Govt. of Bihar, Patna.
2. The Commissioner, Magadh Division, Gaya.
3. The District Magistrate, Gaya.
4. The District Welfare Officer, Gaya.
5. The District Programme Officer, Gaya.
6. The Block Development Officer, Gurua, District- Gaya.
7. The Child Development Project Officer, Gurua, District- Gaya.
8. Malti Sinha Wife of Kishori Prasad, resident of Village- Pirwan, P.S.- Gurua, District- Gaya.

.... Respondents

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Appearance :

For the Petitioner/s : Mr. T.N.Maitin, Sr. Adv.
Mr. Ashok Kumar, Adv.

For the Respondent/s : Mr. Krishna Chandra Jha, AC to AAG-8

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

ORAL JUDGMENT

Date: 08-02-2017

Heard Mr. Triloki Nath Maitin, learned Senior Counsel for the petitioner and Mr. Krishna Chandra Jha, AC to AAG-8, for the State.

Several rounds of contest in between the petitioner and the private respondent has culminated in the order dated 16.11.2016 passed by the Commissioner, Magadh Division, Gaya in Anganwari Appeal No. 57/2009, whereby the claim of respondent no.8 for appointment as Anganwari Sevika, Anganwari Kendra No. 48, Gram Panchayat Raj, Khap, Block Gurua, in the district of Gaya, has been



upheld.

The facts briefly stated is that in a selection process for the post, the petitioner succeeded in comparison to the private respondent even though the private respondent had higher marks. This is undisputed and the reasons for preference was some discrepancy appearing in the testimonials submitted by the private respondent. The private respondent filed a complaint before the District Magistrate and which was accepted by the District Magistrate and the appointment of the petitioner was set aside. The petitioner came before this Court in C.W.J.C.No. 1621/2009 questioning the order of the District Magistrate on grounds that she has not been heard and the order was quashed and the matter remanded. On remand, the District Magistrate reiterated the position upholding the claim of the private respondent. The petitioner again came before this Court in C.W.J.C.No. 10455/2009 and was advised to avail of the alternative remedy so available to her vide order present at Annexure 12. The petitioner filed an appeal before the Divisional Commissioner giving rise to Anganwari Appeal No. 57/2009 and the Divisional Commissioner taking note of the discrepancy appearing in the testimonials allowed the appeal and quashed the appointment of private respondent, thus, reversing the order of the District Magistrate. This time it was the turn of the private respondent to approach this Court in C.W.J.C.No.



17761/2010 and vide order passed on 3.3.2016 present at Annexure 14 the matter was remitted to the Commissioner for disposal in consideration of the facts on record. It is thereafter that the appeal of the writ petitioner was reheard and the respondent Divisional Commissioner on being satisfied by genuineness of the testimonials of the private respondent and taking note of undisputed position that the private respondent had better marks than the writ petitioner dismissed the appeal and ordered for reinstatement of the private respondent, which has aggrieved the writ petitioner, who is before this Court.

I have heard learned counsel for the parties and have perused the records.

The only issue being raised by Mr. T.N.Maitin, learned Senior Counsel for the petitioner, to question the order is that any form of discrepancy requires to be sorted out at the very initial level and since the private respondent had not succeeded at that stage, there was no occasion for the Divisional Commissioner to accept its rectification. There is apparently no dispute as to the genuineness of the testimonials of the private respondent rather the sole ground on which the private respondent was unsuited is that there was some kind of discrepancy in the certificate so present.

Having considered the reasons assigned by the Commissioner to endorse the view of the District Magistrate in upholding the claim



of the private respondent on her possessing better marks than the writ petitioner and the satisfaction recorded thereon, I find no reason to interfere with the view which is resting on examination of records. Once the view of the District Magistrate on the documents of the private respondent has on re-examination been endorsed by the Divisional Commissioner, there cannot be a third opinion thereon.

The writ petition is disposed of.

(Jyoti Saran, J)

Surendra/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	23.02.2017
Transmission Date	NA

