

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.3560 of 2014

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Shobha Kumari Wife Of Ghanshyam Kumar @ Ghanshyam Yadav Resident Of
Village- Birgaon, P.O. Chatra, Police Station- Gwalpara, District- Madhepura

.... Petitioner/s

Versus

1. The State Of Bihar Through the Secretary, Social Welfare Department,
Government Of Bihar, Patna
2. The Director, I.C.D.S., Social Welfare Department, Govt. Of Bihar, Patna
3. The Divisional Commissioner, Koshi Division, Saharsa
4. The District Magistrate, Madhepura
5. The District Programme Officer, Madhepura
6. The Child Development Project Officer, Gwalpara, District- Madhepura
7. Aruna Kumari Wife Of Bisheshwar Singh Resident Of Village- Latipur, Police
Station- Bihpur, District- Bhagalpur, At present Residing At Village- Birgaon, P.O.
Chatra, Police Station- Gwalpara, District- Madhepura

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Sharda Nand Mishra, Adv.

For the Respondent/s : Mr. GA-1 S.K.SHARMA

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA

ORAL JUDGMENT

Date: 23-08-2017

Heard Mr. Sharda Nand Mishra learned counsel for the
petitioner and learned counsel for the State.

2. The petitioner assailed the order dated 28.11.2011
passed by the District Magistrate, Madhepura (as contained in
annexure-2) and the order dated 21.12.2013 (as contained in
annexure-1) passed by the Divisional Commissioner Koshi Division,
Saharsa by which the selection of the petitioner Sobha Kumari was
cancelled from the post of Angan Bari Sevika and the District
Programme Officer, Madhepura was directed to take steps for fresh



selection of Angan Bari Sevika .

3. Mr. Sharda Nand Mishra learned counsel for the petitioner submits that respondent no. 7 Aruna Kumari filed C.W.J.C. No. 9097/2008 in this court and this court vide order dated 25.11.2010 directed the District Magistrate, Madhepura to decide her grievances after hearing all concerned including Respondent no. 8 Sobha Kumari (petitioner). In pursuance of the aforesaid order, the District Magistrate Madhepura heard both sides and perused the records. The District Magistrate, Madhepura found that the most populous population of the nutritional area is of extremely backward class, but Sobha Kumari (petitioner) belongs to backward class and she was appointed by the Mukhia of gram panchayat in violation of the rules and directives meant for appointment of Angan Bari Sevika, Sahayika and Pracharika. Learned counsel for the petitioner further submits that the order is bad because the District Magistrate, Madhepura directed the Executive Magistrate to make enquiry according to Clause 8 of the directives for appointment of Angan Bari Sevika, Sahayika and Pracharika. The enquiry should have been made by the District Magistrate, Madhepura himself or by the Sub-Divisional Officer, District Welfare Officer, District Programme Officer or officers subordinate to the Sub-Divisional Magistrate. It is further submitted that respondent no. 7 is the daughter of the village. Clause 3 (Gha) of



the directives of 2006 clearly stipulates that only daughter-in-law of the village can be appointed on the post of Angan Bari Sevika, Sahayika and Pracharika and no daughter of the village can be appointed. Ignoring all these facts the District Magistrate, Madhepura ordered for fresh selection of Angan Bari Sevika and the Divisional Commissioner, Koshi Division, Saharsa also did not look into the illegalities and dismissed the appeal of the petitioner.

4. On the contrary learned counsel for the State submitted that appointment of the petitioner was found illegal, as the petitioner belongs to backward class and populous population of the nutritional area is of extremely backward class. On this ground alone, the selection of the petitioner has been cancelled and the order does not require any interference. It is evident from the order of the District Magistrate, Madhepura that he asked the Executive Magistrate to hold enquiry and submit report. The Executive Magistrate submitted report vide annexure-13 of I.A. No. 5677/17.

5. Learned counsel for the petitioner submits that Executive Magistrate is not authorized and the enquiry was also not held in presence of the aggrieved parties, but I do not find any force in the submission of learned counsel for the petitioner. Clause -8 of the directives of 2006 itself says that the enquiry can be held by the officers junior to Sub-Divisional Officer and therefore, there is no bar



that the Executive Magistrate who is junior to Sub-Divisional Officer cannot hold any enquiry. From perusal of the enquiry report itself, it appears that the population of extremely backward class namely, Beldar are about 110 houses and the population is 1400 only whereas, the population of backward class is less than the population of extremely backward class in the nutritional area. On this ground the District Magistrate, Madhepura found that the selection of the petitioner illegal and in contravention of the provisions of the directives of 2006.

6. Therefore, I do not find any illegality in the aforesaid order and it requires no interference, accordingly, this writ petition is dismissed.

(Prabhat Kumar Jha, J.)

Vinita/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	18.09.2017
Transmission Date	NA

