

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.761 of 2015
IN
Civil Writ Jurisdiction Case No. 3681 of 2015**

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Sanjoga Kumari, wife of Sri Brijanandan Singh, Resident of Village- Umrai Bigha,
P.S.- Makhdumpur, District- Jehanabad.

.... Appellant/s

Versus

1. The State of Bihar through the Principle Secretary welfare Department Government of Bihar, Patna.
2. The Additional Secretary, Welfare Department Government of Bihar, Patna. null null
3. The Deputy Director, Welfare Magadh Division, Gaya. null null
4. The Collector District- Jehanabad.
5. The District Programme Officer District- Jehanabad.
6. The C.D.P.O. Prakhand Makhdumpur, District- Jehanabad.
7. Munni Kumari, wife of Sri Mahesh Prasad Village Umarai Bigha, P.S.- Makhdumpur, District- Jehanabad.

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Uma Kant Shukla and Mr. Shashi
Suman Kumar, Advocates

For the State : Mr. Pramod Kumar Sinha, AC to SC 16

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date: 04-09-2017

Seeking exception to an order dated 13.03.2015 passed by
the learned Writ Court in CWJC No. 3681 of 2015 this appeal has
been filed under Clause 10 of the Letters Patent in the matter of
appointment of Anganwari Sevika.

For the post in question, petitioner's candidature has been
rejected and the respondent-Munni Kumari is directed to be appointed
not only by the statutory appellate authority but also by the learned
Writ Court primarily on account of the fact that there is pre-dominant



evidence available on record to show that petitioner is not a resident of the ward in question where the centre is situated and, therefore, no indulgence can be made.

The concurrent order passed by the appellate authority and the learned Writ Court are challenged in this proceeding. It is the case of the petitioner that she has produced certificate of the Circle Officer, Sarpanch and various other authorities to show that the petitioner is a resident of the local ward in question and the impugned order passed ignoring the same is unsustainable. However, on a perusal of the detailed order of the appellate authority and as available at Annexure-7 dated 10th January, 2015 from Page 34 of the paper book in the writ petition, we find that all these aspects were considered by the learned statutory appellate authority and the appellate authority found that even though the certificates are issued by the officers concerned but in the electoral roll for the General Election held in the year 2011, in the voters list of Ward No. 12, name of the appellant Sanjoga Kumari is not available, on the contrary, in Panchayat Election held in the year 2011 in the electoral roll the name of the appellant Smt.Sanjoga Kumari is shown as voter in the area which does not fall in Ward No. 12 but falls in Ward No. 10. The learned appellate authority has dealt with this matter in detail and has held that the petitioner is not a resident of Ward No. 12 but is shown as a resident of Ward No. 10, accordingly, the appeal has been



decided and this has been approved by the learned Writ Court. The finding recorded that the appellant is not a resident of Ward No. 12 is a finding on fact based on valid appreciation of the material available on record, namely, the electoral roll published by the State Election Commissioner, the certificates issued by some officers which is showing a different position cannot be accepted when the authentic electoral roll shows a different position. In view of this, no case is made out for indulgence for the simple reason that the electoral roll maintained and published by the State Election Commission is more authentic than a certificate issued by some officer like Sarpanch or the Circle Officer.

Accordingly, a reasonable concurrent finding by the appellate authority and the learned Writ Court does not call for any interference. The appeal is, therefore, rejected.

(Rajendra Menon, CJ)

(Anil Kumar Upadhyay, J)

mrl

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