

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.10196 of 2008

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Nirmala Kumari, wife of Sri Rabindra Prasad, resident of village- Alapur, P.O.-
Sonebarsha, P.S.-Barauli, District- Gopalganj.

.... Petitioner

Versus

1. The State of Bihar.
2. The Collector, Gopalganj.
3. Sub-Divisional Officer, Gopalganj, at Gopalganj, District-Gopalganj.
4. Welfare Officer, Gopalganj, District-Gopalganj.
5. Block Development Officer, Barauli at Barauli, District- Gopalganj.
6. Child Development Project Officer, Barauli at P.S.-Barauli, District- Gopalganj.
7. Gram Sevak –cum- Panchayat Sachiv (Sri Raj Lotan Dubey) Sonebarsha Panchayat, P.S.-Barauli, District- Gopalganj.
8. Mukhiya, Sonebarsha Panchayat (Smt. Krishnawati Devi, w/o Madan Ram) P.O. Sonebarsha Panchayat P.S. Barauli, District- Gopalganj.
9. Mukesh Devi, wife of Sanjay Chaudhary, resident of village- Alapur, P.O.- Sonebarsha, P.S.-Barauli, District- Gopalganj.

.... Respondents

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Appearance :

For the Petitioner	: Mr. Rajendra Narain Sinha, Sr. Adv. Mr. Jitendra Kr. Shrivastava, Adv.
For the State	: Mr. Shiv Kumar, A.C. to G.A.-3
For the Respondent Nos. 8 & 9:	Mr. Mahesh Narain Parbat, Sr. Adv. Mr. R. Rahman, Adv. Mr. Anuj Kumar, Adv.

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 14-11-2017

Heard learned counsel appearing for the respective parties.

2. In this case, the petitioner is raising the grievance of refusal to appoint the petitioner as Anganbari Sevika at Alapur



Centre, Block-Barauli and in place of the petitioner one Mukesh Devi, private respondent no.9, has been appointed.

3. In the years 2007, an advertisement was notified for the purposes of selection of Anganbari Sevika and Sahayika. The petitioner and the private respondent have applied for the post of Anganbari Sevika. Though the petitioner has better marks than to the private respondent, but the claim of the petitioner has been rejected on the ground that the petitioner and her husband are no longer resident of Alapur village as they have constructed the house at Anand Bazar, Barauli and they along with family members are staying there.

4. Learned counsel for the petitioner submits that there is no bar for the appointment of Anganbari Sevika as because the petitioner was at the relevant time was staying at Barauli, but it is also an admitted fact that she along with her husband had property at Alapur village. So, the petitioner could apply for appointment on the post of Anganbari Sevika at two places as no restriction provided under the Scheme. It has further been stated that the petitioner has applied for residential certificate at Barauli, which was granted, but later on, she made application for cancellation of the same and the refusal to take into consideration the application of the petitioner is



per se illegal.

5. Whereas, learned counsel for the private respondent submits that the petitioner has suppressed the material fact from this Court as the petitioner has obtained the residential certificate and earning certificate from Barauli and she applied there, when she failed to succeed there, she applied at Alapur village. In support of the statement, he attached the relevant document such as, residential as well as earning certificate. He has also pointed out that this issue about entitlement of petitioner for appointment as Anganbari Sevika was taken into consideration on 02.08.2007 and the Sub Divisional Officer, after examining all the records has passed the order against the petitioner, which is appealable in law.

6. In that event, learned counsel for the petitioner submits that he should be allowed to raise the objection before the Collector as provided under the scheme of 2007, at the relevant time, the Collector of the District was the competent authority to consider the objection of the person in respect of appointment of Anganbari Sevika.

7. As there is provision for appeal before the Collector as was prevalent during 2007. If any objection or appeal is filed by the



petitioner before the Collector, Gopalganj, the Collector will be obliged to examine the matter and pass reasoned order in accordance with law. It is made clear that the Collector while taking decision will give notice and hear the other side and would pass reasoned order in accordance with law.

8. With the aforesaid observations and directions, this writ application is disposed of.

(Shivaji Pandey, J)

pawan/-

AFR/NAFR	N.A.F.R.
CAV DATE	N/A.
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