

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.12920 of 2010

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Musarat Ara Wife of Abul Hasan @ Abul Hussain, Resident of Village-
Salehpur, P.O.- Salehpur, P.S. -Falka, District -Katihar.

.... Petitioner

Versus

1. The State of Bihar through the Secretary, Department of Welfare, Government of Bihar, Old Secretariat, Patna.
2. The District Magistrate, Katihar.
3. The Deputy Development Commissioner, Katihar.
4. The District Programme Officer, Katihar.
5. The Sub Divisional Officer, Katihar.
6. The Child Development Project Officer, Falka, Katihar
7. The Mukhiya, Salehpur Gram Panchayat Block Falka, District Katihar
8. The Secretary, Salehpur Gram Panchayat, Block Falka, District Katihar
9. Sri Akhlak Jarra, Ward Member 10 Gram Panchayat Raj, Salehpur Falka, District Katihar
10. Manija Khatoon wife of Md. Jogi Resident of Village- Salehpur, P.O.- Salehpur, Falka, District Katihar

.... Respondents

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Appearance :

For the Petitioner : Mr. D. K. Jha,
Mr. Jibendra Mishra, Advocates
For the State : Mr. Ratnakar Jha, AC to GP 17
For Respondent No.10: Mr. P.K. Jaipuriyar,
Mr. Anshuman Jaipuriyar,
Mr. Anukriti Jaipuriyar, Advocates

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 09-08-2017

Heard learned counsel for the petitioner, learned counsel for the State and also learned counsel for the respondent no. 10.

2. The present writ petition has been filed for quashing the letter bearing Memo No. 638 dated 31.12.2009 (Annexure-7) issued by the District Programme Officer, Katihar by which he has removed the petitioner from the post of Anganbari Sahayika at Anganbari Centre No. 088 Jahir Tola of Salehpur Gram Panchayat under Falka Block in the district of Katihar and also directed for selection of



respondent no. 10 on the said post at the same Anganbari Centre; and for connected reliefs.

3. Learned counsel for the petitioner raises a short contention to assail the impugned order dated 31.12.2009 (Annexure-7), submitting that the said order is wholly without jurisdiction. It is pointed out that according to paragraphs 8 and 10 of the Guidelines for Selection of Anganwari Sevika and Sahayika, 2006, it was the District Magistrate, who was the competent authority to make/direct enquiry with regard to the complaints alleging irregularities in the matter of selection, and to pass orders after hearing Anganawari Sevikas and Sahayika. In the present case, the order of cancellation of the petitioner's selection has been passed by the District Programme Officer, who has no authority to do so in terms of the said Guidelines.

4. Learned counsel for the State as well as learned counsel for the private respondent no. 10 appear and have been heard. They rely to the statements made in their respective counter affidavits to oppose the writ petition. They were, however, unable to controvert the stand of the petitioner.

5. Having heard learned counsel for the parties and on careful consideration of the materials available on record, this Court finds considerable merit in the writ petition. A bare perusal of paragraph nos. 8 and 10 of the Guidelines makes it clear that it is the District Magistrate who has been empowered to conduct enquiry or have the



same conducted in the matters involving irregularities in the selection process of Anaganbari Sevika and Sahiyaka. The final order cancelling the selection is required to be made by the District Magistrate and there is no provision for delegation of such powers under the said Guidelines.

6. In this view of the matter, the impugned order dated 31.12.2009 (Annexure-7) must be held to be illegal and wholly without jurisdiction. The same is accordingly set aside and the writ petition stands allowed.

(Vikash Jain, J)

B.T/-

AFR/NAFR	AFR
CAV DATE	N.A.
Uploading Date	14.08.2017
Transmission Date	N.A.

