

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.4233 of 2007

=====

Mamta Kumari wife of Rajesh Kumar, resident of village- Basra
Bazar, P.S.- Saraiya, Distt. Muzaffarpur.

.... Petitioner

Versus

1. The State of Bihar through its Secretary, Social Welfare
Department Government of Bihar, Patna.
2. The District Magistrate, Muzaffarpur.
3. The Director Social Welfare, Bihar, Patna.
4. The District Welfare Officer, Muzaffarpur.
5. The Child Development Project Officer, Saraiya, Muzaffarpur.

.... Respondents

=====

Appearance :

For the Petitioner : Mr. PRABHAKAR JHA

For the Respondent/s :

=====

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH

ORAL JUDGMENT

Date: 30-01-2017

Heard learned counsel for the petitioner.

The present writ application has been preferred for
direction to respondent no.2 to allow the petitioner to function as
Anganbari Sewika at Centre No. 121 situated at Basra Bazar under the
Saraiya Block of Muzaffarpur District in view of the selection of the
petitioner made in the meeting of Aam Sabha held on 27.01.2003.

The factual matrix would unveil that the petitioner being
the daughter-in-law of Kishore Chaudhary, coming under BPL
category applied for Angan Bari Sewika. After verification of her



application, the meeting of Aam Sabha for such selection was held on 21.01.2003 under the chairmanship of the Gram Panchayat Mukhiya and its Secretary i.e., Child Development Project Officer. The petitioner's name was approved for Angan Bari Sewika at Centre No. 121 situated at Basra Bazar and the intimation was issued vide letter 27.01.2003, as contained in Annexure-1, with the signature of the Member, Secretary and the Chairman of the Aam Sabha. The actual intimation with regard to joining was not given to the petitioner and subsequently the petitioner came to know that one Pinki Devi has been wrongly engaged as Anganbari Sewika in place of the petitioner. The petitioner further came to know that said Pinki Devi claimed her engagement on the basis of forged B.P.L. Card No. 3139 of Ramdayal Sah son of Ram Prasad Singh resident of village-Jagiria. Pinki Devi claimed the said Ramdayal Sah as her father-in-law though the name of the father-in-law of Pinki Devi is Ramdayal Sah son of Late Harihar Sah resident of village- Basra Bazar.

The petitioner filed representation before respondent no.2 as contained in Annexure-2 describing in detail how Pinki Devi played fraud but there was no response and consequently the petitioner filed C.W.J.C. No. 7965 of 2004 as contained in Annexure-3 but on the prayer of the petitioner the said writ application was



dismissed as withdrawn vide order dated 07.09.2005 with liberty to the petitioner to raise the grievances before respondent no.2. This Court further observed that in case the petitioner files such representation, respondent no.2 shall dispose of the same with a reasoned order in accordance with law, within a period of three months from the date of filing of such representation. Consequently, in pursuance to the order of this Court, the petitioner filed presentation on 27.09.2005 as contained in Annexure-4 but the same was not disposed of within stipulated time of three months, upon which the petitioner filed contempt application being M.J.C. No. 889 of 2006. During pendency of contempt application, the District Magistrate, after full verification and on the basis of report submitted by the C.D.P.O., cancelled the appointment of Pinki Devi vide memo no. 382 dated 31.08.2006 as contained in Annexurs-5/1 and directed the Child Development Project Officer for fresh selection within a period of ten days after calling the fresh meeting of the Aam Sabha with due advertisement and intimation to all concerned.

It is submitted by the learned counsel for the petitioner that when the appointment of Pinki Devi was cancelled, the petitioner ought to have been allowed to function, since initially she was selected. The petitioner was not aware about cancellation of her



selection on 04.03.2003, as this fact has been brought on record for the first time, by way of statement made in para 9 of the counter affidavit. This fact has also been brought to the notice of the petitioner for the first time that after cancellation of the appointment of the petitioner on 04.03.2003, the fresh Aam Sabha meeting was held in which Pinki Devi was selected.

A counter affidavit has been filed by respondent-State wherein it has specifically been stated that on the ground of non-adherence to the guidelines for appointment on the post of Angan Bari Sewika, the Deputy Development Commissioner-cum-Chief Ex-Officer, Zila Parishad, Muzaffarpur, vide letter no. 11/MU/Zila Parishad dated 04.03.2003, cancelled all such selections and thereafter Pinki Devi was selected but during enquiry it was found that Pinki Devi got selected on the basis of forged BPL number/certificate and hence, vide Memo no. 382 dated 31st August, 2006 the District Magistrate cancelled the selection of said Pinki Devi and directed for fresh selection within a period of ten days after making due advertisement with regard to fresh Aam Sabha. As per guidelines, an Angan Bari Sewika has to be selected from the caste which forms majority of population in and around the centre in question and the said centre was reserved for extremely backward class, while the



petitioner belongs to Scheduled caste category, hence she was not entitled for engagement as Angan Bari Sewika.

In view of this Court, the present writ application is absolutely misconceived mainly on two grounds. Firstly, the petitioner's selection was cancelled as far back as 04.03.2003 and the same has not been challenged till date, hence no direction can be issued to respondent no.2 to allow the petitioner to function as Angan Bari Sewika. Secondly, the contempt application being MJC No. 889 of 2006 preferred by the petitioner for initiating contempt proceeding for not disposing of the representation of the petitioner in view of the order passed in C.W.J.C. No. 7965 of 2004, was disposed of in view of the fact that the Collector, Muzaffarpur had passed reasoned order on 31.08.2006, and the representation had been disposed and Pinki Devi's selection was cancelled and she was removed from the post of Angan Bari Sewika. Though, liberty was given to the petitioner to challenge the said reasoned order in accordance with law.

In the present writ application, quashing of the said reasoned order dated 31.08.2006 as contained in Annexure-5/1 has not been prayed for nor Pinki Devi has been made party-respondent. There is nothing on record to suggest whether fresh selection has been made or not in pursuance to the order dated 31.08.2006 whereby the



fresh selection was directed to be made within a period of ten days. Moreover, as per the guidelines, after mapping of the area, the Anganbari centre in question was reserved for extremely backward class whereas the petitioner belongs to Scheduled caste category. On this score alone the petitioner does not come within the zone of consideration for being selected as Anganbari Sewika.

In the circumstances, this Court finds no merit in the present writ application.

Accordingly, the present writ application is dismissed.

(Dinesh Kumar Singh, J)

Amrendra/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	12.04.2017
Transmission Date	N/A

