

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.709 of 2016

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Geeta Kumari w/o Sri Pyarelal Sah R/o village - Nawalpur, Bhelisah Ka Tola, P.S. Husainganj, Distt. Siwan.

.... Petitioner

Versus

1. The State of Bihar through the Collector, Siwan.
2. The Deputy Director, Welfare Department, Saran Commissioner, Chapra.
3. The District Programme Officer, Siwan.
4. Bal Vikash Pariyojana Padadhikari (C.D.P.O.), Husainganj, Dist. Siwan.
5. Kumari Sima Yadav W/o Mirtunjay Yadav R/o village - Nawalpur, Bhelisah Ka Tola, P.S. Husainganj, Distt. Siwan.
6. Sarpanch, Gram Kachahri, East Harihans, P.S. Hussainganj, Siwan

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Ram Sandesh Roy, Adv.
For the Respondent/s : Mr. Apurva Kumar, AC to GA-4
For respondent no.5 : Mr. Alok Kumar, Adv.

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

ORAL JUDGMENT

Date: 18-12-2017

Heard Mr. Ram Sandesh Roy, learned counsel for the petitioner, Mr. Apurva Kumar, learned AC to GA-4, for the State and Mr. Alok Kumar, learned counsel for the private respondent no.5.

The petitioner is aggrieved by the order dated 10.8.2015 passed by the Deputy Director, Welfare in Anganwari Appeal Case No. 13/2015 whereby the appeal has been rejected and the order dated 28.4.2015 passed by the District Programme Officer, Siwan in Case No. 49/2013, whereby the appointment of the petitioner to the post of Anganwari Sevika, Anganwari Kendra No. 16, Gram Panchayat Purvi Harihans, Nawalpur Bheli Sah Ka Tola, in the district of Siwan has been set aside, inter alia, on grounds that her Gotani (wife of the



brother of the husband of the petitioner), was holding the post of a Panch under the Bihar Panchayat Raj Act, 2006, which was a disqualification under Clause 4.8 of the amended guidelines regulating the service of Anganbari Sevika. It is in consequence of the removal that a fresh process was initiated which led to appointment of the private respondent.

The issue raised by Mr. Roy, learned counsel for the petitioner, to question the orders impugned is that even though Clause 4.8 of the guidelines which was in force at the relevant time, disqualified an applicant whose close relative held a public representative post which included the post of a Panch, but in view of the guidelines present at Clause 4.8B the 'Gotni' of the petitioner submitted her resignation within 15 days of the decision of the Aam Sabha and thus the appointment should not have been interfered with.

It is taking note of this submission of learned counsel that notice was issued to the private respondent and the parties have returned with their counter affidavit(s). In my opinion the statement made in paragraph 3 of the counter affidavit filed on behalf of the State through the Child Development Project Officer would be sufficient to allow the writ petition because the tendering of resignation by the 'Gotani' of the petitioner has been accepted albeit it is stated that though it was addressed to the Sarpanch, it was accepted



by the Block Development Officer. In my opinion even this objection would not make any difference to the situation in hand, in view of the stipulations present in Section 98 of the Bihar Panchayat Raj Act, which inter alia provides for acceptance of resignation on expiry of seven days period unless the Panch withdraws the same within the said stipulated period of seven days.

It is not in dispute that the resignation submitted by the 'Gotni' of the petitioner was never withdrawn. In such view of the matter and even though the 'Gotani' holding a public representative post was a disqualification for appointment of the petitioner as Anganwari Sevika under Clause 4.8 of the guidelines but in view of the guidelines present at Para 4.8B, that the resignation was submitted by the 'Gotani' of the petitioner within time, in absence of any order rejecting the same, the resignation shall have a deemed acceptance in view of the provisions underlying Section 98 of the Bihar Panchayat Raj Act, on expiry of seven days time, thus removing the disqualification.

For the reasons so discussed, the orders put to challenge passed by the District Programme Officer, Siwan in Case No. 49/2013 as affirmed by the Deputy Director, Welfare in Anganwari Appeal Case No. 13/2015 cannot be upheld and are accordingly quashed and set aside. As a consequence, the petitioner shall be restored to the post



of Anganwari Sevika. Since the private respondent had filled up the post during the vacancy so created by the removal of the petitioner, the moment the petitioner is reinstated, the private respondent would have to make way for her and her appointment is accordingly set aside.

The writ petition is allowed.

(Jyoti Saran, J)

Surendra/-

AFR/NAFR	AFR
CAV DATE	NA
Uploading Date	03.01.2018
Transmission Date	NA

