

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.1046 of 2016

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1. Sunita Kumari W/o Nunu Bhaskar, Resident of Village + P.O.- Bhadasi, P.S.- Arwal, District- Arwal.

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Welfare, Govt. of Bihar, Patna.
2. The Director, (Welfare), Bihar, Patna.
3. The District Magistrate, Arwal
4. The Director, N.E.P., D.R.D.A., Arwal.
5. The Deputy Director, Welfare, Magadh Division, Gaya.
6. The District Programme Officer, Arwal.
7. The Child Development Programme Officer, Arwal.
8. The Block Development Officer, Arwal.
9. The Mukhiya, Gram Panchayat Raj- Bhadasi, Arwal, P.O.- Bhadasi, District- Arwal.
10. Reeta Kumari, wife of Narain Sao, resident of Village- Bhadasi, P.S. and District- Arwal.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Thakur Rabindra Kumar, Adv.
Mr. Anish Chandra, Adv.

For the Respondent/s : Mr. Kundan Bahadur Singh, S.C.22

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

ORAL JUDGMENT

Date: 28-06-2017

Heard Mr. Thakur Rabindra Kumar, learned counsel for the petitioner and learned counsel for the State.

The petitioner is aggrieved by the decision taken in the Aam Sabha, Gram Panchayat, Bhadosi District Arwal on 20.12.2012 whereby the petitioner though standing at Serial No. 1 in the merit list so prepared for appointment of the Anganbari Sevika, Anganbari Kendra No.52, Ward No. 14, Gram Panchayat Bhadosi in the district of Arwal was held disqualified in the light of the stipulations present



at paragraph 4.8B of the Anganbari Sevika/Sahaika Guidelines, 2011 which inter alia disqualifies an applicant for such appointment if she is a close relative of the public representative. In the present it was held that since the husband of the petitioner was an elected ward member of the ward in question, she stood disqualified.

Mr. Thakur Rabindra Kumar learned counsel appearing for the petitioner submits the decision of the Aam Sabha has been ratified when the statutory complaint filed by the petitioner before the District Programme Officer giving rise to Anganbari Appeal No. 01 of 2013-14 was dismissed by the District Programme Officer vide order dated 10.1.2014 impugned at Annexure-3 and has also been confirmed by the Deputy Director, Welfare in dismissing the appeal No.71(क) of 2014 of the petitioner vide order passed on 8.7.2015. Learned counsel for the petitioner while referring to the orders impugned has submitted that nodoubt the husband of the petitioner was an elected ward member but had submitted his resignation on 18.6.2012, much before the selection. He thus in reference to the provision underlying clause 4.8B of the Guidelines has submitted that since the husband of the petitioner has filed his resignation much before the Aam Sabha was held there was no disqualification in the petitioner.

The arguments of learned counsel has been contested by learned State counsel in reference to the counter affidavit.



I have heard learned counsel for the parties and I have perused the records and the findings recorded by the District Programme Officer by itself is explanatory enough to disallow the candidature of the petitioner. The District Programme Officer while accepting that the husband of the petitioner had submitted his resignation on 18.6.2012, has also taken note of a letter bearing No. 327 dated 3.12.2012 of the Mukhiya in which he has submitted that although the petitioner's husband had submitted his resignation on 18.6.2012 but soon thereafter he withdrew his resignation on 23.6.2012 and thus continues to be a ward member.

Section 19 of the Bihar Panchayat Raj Act, 2006 inter alia provides for resignation of members of the Gram Panchayat to be given in writing and stipulates that on expiry of 7 days, the office held by the Ward Member shall become vacant unless he withdraws his resignation within the same period.

In the present case, it is reported by learned counsel for the State that the resignation tendered by the husband of the petitioner on 18.6.2012, was withdrawn on 23.6.2012 i.e. within the period of 7 days and thus he continues to be the elected member of Ward No.14. The order passed by the District Programme Officer as confirmed by the appellate authority reflects that this position has been reiterated by the Mukhiya even subsequently, when asked to inform as to whether



the husband of the petitioner continues to be the elected Ward Member.

Although learned counsel for the petitioner has tried to dispute the withdrawal of resignation but in my opinion the forum available for the husband of the petitioner to question this situation would be under the statutory provisions of the Bihar Panchayat Raj Act, 2006 and not before the statutory authorities constituted under the Anganbari Sevika and Sahaika Guidelines.

In the circumstances existing, the opinion expressed by the District Programme Officer ratifying the decision of the Aam Sabha as confirmed by the appellate authority suffers no infirmity requiring interference.

The writ petition is disposed of.

(Jyoti Saran, J)

Bibhash/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	08.07.2017
Transmission Date	NA

