

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.9497 of 2016

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Kajal Kiran Wife of Manish Kumar Resident of Village Jani Pur, PS Sahkund,
District Bhagalpur.

.... Petitioner

Versus

1. The State of Bihar through the Divisional Commissioner, Bhagalpur.
2. The District Magistrate, Bhagalpur.
3. The District Programme Officer, Bhagalpur
4. The Block Development Officer, Sahkund, District Bhagalpur.
5. The Child Development Project Officer, Sahkund, District Bhagalpur
6. The Block Panchayat Raj Officer, Sahkund, district Bhagalpur. null null
7. The Mukhiya , Gram Panchayat -Pai Dominia Mai, District Bhagalpur.
8. Panchayat Sachiv, Sahkund, District Bhagalpur.
9. Khusbu Kumari Wife of sunil Kumar Resident of Village- Gauriyasi, PS Sahkund, District Bhagalpur.

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Sunil Kumar Singh, Adv.

For the Respondent/s : Mr. Deepak Sahay Jamuar, AC to AAG4

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

ORAL JUDGMENT

Date: 16-01-2017

Heard Mr. Sunil Kumar Singh, learned counsel for the
petitioner and Mr. Deepak Sahay Jamuar, AC to AAG-4.

The petitioner is aggrieved by the order dated 27.4.2016 of
the District Programme Officer, whereby she has been non-suited as
against the private respondent no.9 for appointment to the post of
Anganwari Sevika, Anganwari Centre No. 174, situated in Ward
No.10, Block Sahkund, in the district of Bhagalpur.

According to the impugned order, no suitable candidates
were found in Ward No.10 and thus, consideration was extended to
the nearby Ward No.9 fromwhere there were two applicants i.e. the



petitioner and respondent no.9 and of which since respondent no.9 was found to have better marks she was preferred.

According to Mr. Singh, learned counsel for the petitioner, the premise on which the petitioner has been non-suited, is not correct because the petitioner is a permanent resident of Ward No.10 itself in which centre is located. In support, learned counsel has referred to the residential certificate granted by the Block Development Officer, Sahkund present at Annexure 3 and the enquiry report submitted by the Block Panchayat Raj Officer, Sahkund at Annexure 3/1.

It is submitted that mistakenly the name of her husband Manish Kumar, which appeared in the voter list of Ward No.10 until 2005, was shifted to Ward No.9 and it is on this count that the order has been passed. Though a statutory appeal lies against the order of the District Programme Officer before the District Magistrate under the guidelines in force but it is stated that due to mistaken legal advise the petitioner approached the Divisional Commissioner, who rightly declined to accept the appeal and hence, the writ petition.

Having heard learned counsel for the parties and since the dispute requires a determination of an issue as to whether the house of the petitioner lies in Ward No.10 or Ward No.9, I deem it proper to allow the petitioner to exhaust the remedy of appeal which lies before the District Magistrate, Bhagalpur and even though the limitation



prescribed has lapsed in the meantime, in case the petitioner would file an appeal before the District Magistrate, Bhagalpur within four weeks from today together with an application for condonation of delay, the same would be considered by the District Magistrate, Bhagalpur and be disposed of in accordance with law after opportunity of hearing to the petitioner and the private respondent no.9. An expeditious disposal preferably within three months from filing of the appeal shall serve the purpose.

With the aforementioned observation and direction, this writ petition is disposed of.

(Jyoti Saran, J)

Surendra/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	23.01.2017
Transmission Date	NA

