

**IN THE HIGH COURT OF JUDICATURE AT PATNA**

**Civil Writ Jurisdiction Case No.3495 of 2008**

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Mutahara Begum wife of Mozaffar Imam @ Mozaffer Alam, resident of  
Village- Joharpur, P.O. Barsoi, P.S.-Barsoi, District-Katihar

.... .... Petitioners

Versus

1. The State of Bihar through the Secretary, Department of Welfare,  
Government of Bihar, Patna.
2. The District Magistrate, Katihar, District-Katihar.
3. The District Welfare Officer, Katihar, District-Katihar
4. The Sub-Divisional Officer, Barsoi Sub Division, District-Katihar.
5. The Child Development Project Officer, Barsoi Block, District-Katihar.
6. The Mukhiya of Gram Panchayat Baltar, barsoi, District-Katihar.
7. The Panchayat Secretary, Baltar Panchayat Barsoi Block, District-Katihar.
8. Shagufta Naaz wife of Md. Khursheed Alam, Vill-Joharpur, P.O.+P.S.-  
Barsoi, Distt- Katihar (Bihar)

.... .... Respondents

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**Appearance :**

For the Petitioner/s : Md. Qumrul Hoda, Adv.

For the State : Mr. Nutan Sahay, A.C. to A.A.G-12.

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**CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH**

**ORAL JUDGMENT**

**Date: 14-02-2017**

Heard learned counsels for the petitioner and  
respondent nos. 1 to 5.

The respondent no. 8 was impleaded as party in  
the writ application vide I.A. No. 2036 of 2015 which was allowed  
vide order dated 18.03.2015 and notices were issued to the  
respondent no. 8. The office note dated 21.06.2016 reflects that  
notices issued to respondent no. 8 was validly served but in spite of  
valid service of notice, she chose not to appear.

The present writ application has been filed with a  
prayer to direct the respondent nos. 2 to 5 to allow the petitioner to



receive the training and discharge duty as Anganbari Sewika at Pichchra Kendra under Gram Panchayat Baltar, since the petitioner was selected and appointed vide Memo No. 9 dated 05.07.2007 as contained in Annexure-2, but she was never sent for training or allowed to work as Anganbari Sewika. The relief prayed for in paragraph no. 1 of the writ petition reads as follows:-

“That this application on behalf of the petitioner above named, is for issuance of writ in the nature of mandamus and/or any other appropriate writ or writs, order or direction to the Respondents 2 to 5 to allow the petitioner to get training of Anganwadi Sevika as required in the guideline 2006 and allow the petitioner to discharge her duties of Anganwadi Sevika at the panchayat of respondent no. 6 and 7 as the petitioner has been selected/appointed as Anganwadi Sevika by memo no. 9 dated 5.7.07.”

It is submitted by learned counsel for the petitioner that the petitioner applied for being considered for appointment on the post of Anganbari Sewika at Pichchra Kendra under Gram Panchayat Baltar. The Selection Committee prepared the merit list, wherein the name of the petitioner figured at Serial No. 2 having secured 71.25 percent at the Fokania Examination. In the merit list, Shahnaj Begum who secured 75.83% at Fokania and



Shagufta Naaz(respondent no. 8) who secured 48.14 % at intermediate level were at serial nos. 1 and 3 respectively. The merit list of the selected candidates has been brought on record as Annexure-2 to the writ petition.

Consequently, Shahnaj Begum being at 1<sup>st</sup> position in the merit list was selected/appointed as Anganbari Sewika for the centre in question but subsequently, it was detected that she was not 18 years of age at the time of selection/appointment, hence, the Child Welfare Project Officer, Barsoi (respondent no. 5) vide letter no. 125 dated 13.06.2007 cancelled the selection of said Sahnaz Begum and directed the Panchayat Mukhiya (respondent no. 6) to select new Anganbari Sewika. The letter of the Child Welfare Project Officer, Barsoi has been brought on record as Annexure-3 to the writ petition.

The petitioner was thereafter selected/appointed as Anganbari Sewika at Pichchra Kendra under Gram Panchayat Baltar vide Memo No. 9 dated 05.07.2007 in pursuance to Aam Sabha of the Gram Panchayat held on 05.7.2007. The said appointment letter has been brought on record as Annexure-1 to the writ petition. The petitioner, thereafter filed a representation before the Sub-Divisional Officer, Barsoi on 16.07.2007 requesting him to send the petitioner for training. The said representation has been brought on record as



Annexure-4 to the writ petition.

The petitioner, again filed a representation before the Child Development Project Officer, Barsoi on 22.08.2007 and on 25.09.2007 before the Sub-Divisional Officer, Barsoi, as contained in Annexure-5, requesting him to send the petitioner for training. Yet, the petitioner was not selected for training and a non-selected candidate who was at serial no.3 in the merit list was sent for training.

The Sub-Divisional Officer, Barsoi (respondent no. 5) vide letter no. 1503 dated 15.10.2007 found the selection of the petitioner as per the guidelines and directed the Child Development Project Officer, Barsoi (respondent no. 5) to send the petitioner for training. Moreover, an explanation was also sought from the Child Development Project Officer, Barsoi as to under what circumstances, a non-selected candidate Shagufta Naz was sent for training. The Child Development Project Officer, Barsoi vide letter no. 230 dated 30.11.2007 assigned wrong reason and stated that in the merit list, the marks of the petitioner was not mentioned and that as per the guidelines of Hon'ble Supreme Court, the training was to be completed till 18.06.2007, hence he sent Shagufta Naz for the training.

The petitioner, thereafter filed a representation



before the District Magistrate, Katihar on 03.01.2008 bringing on the record the illegality and the manner in which the respondent authorities did not allow the petitioner to undergo training or to join at the centre in question in spite of the appointment being issued in favour of the petitioner.

Learned counsel for the respondent nos. 1 to 5 submits that he supports the contentions made in the counter affidavit filed on behalf of respondent no.5. The meeting of Aam Sabha was held on 14.05.2007, where merit list of three candidates namely Shahnaz Begam having secured 76.83% marks, Shagufta Naaz having secured 43.14% marks and the petitioner Mutahara Begum having secured 71.25% marks was prepared. Shahnaz Begam who secured higher marks was selected as Angan Bari Sewika for the centre in question but subsequently it was detected that she was below eighteen years of age on the date of selection, hence her selection was cancelled and the C.D.P.O. vide letter no.125 dated 13.06.2007, as contained in Annexure-A to the counter affidavit, directed the Mukhiya Gram Panchayat Raj, Baltar to hold Aam Sabha and re-select the candidate for the said post soon, since the training schedule for the selected candidate was to take place between 18.06.2007 to 23.06.2007. In compliance to the said letter of C.D.P.O., Barsoi, the Panchayat Mukhiya cancelled the selection list



and informed the C.D.P.O., Barsoi vide letter no. 8 dated 03.07.2007, as contained in Annexure-B to the counter affidavit, and also invited the C.D.P.O. to attend the Aam Sabha scheduled on 05.07.2007. In the Aam Sabha meeting held on 05.07.2007, the petitioner Mutahera Begum was selected for the post of Angan Bari Sewika but she could not be sent for training, since the date of training was not issued by the department for long, but subsequently in view of the direction of Hon'ble the Supreme Court to complete the selection process and start the centre, Shagufta Naaz, who was at serial no.3 of the merit list, was sent for training. Thereafter, the petitioner filed representation before the S.D.O., Barsoi with a request to send her for training. Subsequently, when the S.D.O., Barsoi came to know that Shagufta Naaz was sent for training without being selected, he cancelled the traineeship of Shagufta Naaz, vide his letter no. 1503 dated 15.10.2007 and directed the authorities to send the petitioner for training and also sought for explanation in this regard from the C.D.P.O., Barsoi as to under what circumstances, a non-selected candidate was sent for training. The C.D.P.O., Barsoi submitted explanation report before the S.D.O., Barsoi which was accepted and the S.D.O. was pleased to recall the earlier order dated 15.10.2007 whereby the order for sending Shagufta Naaz for training was recalled.



Learned counsel for the petitioner has filed a supplementary affidavit bringing on record that pursuant to the issuance of notice to Shagufta Naaz by this Court, she has resigned vide letter dated 12.11.2015 addressed to C.D.P.O, Barsoi. The said letter has been brought on record as Annexure-9 to the supplementary affidavit. The said resignation letter dated 12.11.2015, as contained in Annexure-10, has been accepted on 16.11.2015 by the C.D.P.O. Thereafter, the petitioner made several representations but she was not sent for training and post of Angan Bari Sewika at the centre in question is still vacant. A statement to that effect has been made in para 6 of the supplementary affidavit which reads as follows:-

“That in view of the aforesaid facts and circumstances the post in question is still vacant and the petitioner is fully entitled to be appointed on the said post.”

Supplementary affidavit stipulates that the husband of the petitioner was never a stamp vendor.

Considering the rival submissions of the parties, this Court is of the view that it is not in dispute that only three persons were selected for being appointed as Angan Bari Sewika for Pichchra centre of Gram Panchayat Baltar. The petitioner's name figured at serial no.2 having secured 71.25% marks, whereas,



Sahnaz Begum figured at Serial No.1, having secured 76% marks and, Sagufta Naz at serial no.3, having secured 48.14 % marks. The candidate at Serial No.1, namely, Sahnaz Begum was selected but subsequently it was detected that she was below 18 years of age on the date of selection, hence her selection was cancelled vide letter no. 125 dated 13.06.2007, as contained in Annexure-3. This is also not in dispute that subsequent to cancellation of selection of Sahnaz Begum, the petitioner was selected vide Memo No.9 dated 05.07.2007, as contained in Annexure-9, but the petitioner was not sent for training for the reason best known to the Authorities concerned. This is also admitted by the respondent authorities in the counter affidavit that Shagufta Naaz, the candidate at Serial No.3 was sent for training without any Aam Sabha meeting or selection. Accordingly, her training was also cancelled by the C.D.P.O., vide letter no. 1503 dated 15.10.2007, as contained in Annexure-C to the counter affidavit, and Panchayat Mukhiya was directed for sending the petitioner for training, but without assigning any reason the earlier order dated 15.10.2007 was recalled vide letter no. 738 dated 07.12.2007, by the S.D.O., as contained in Annexure-B to the counter affidavit. This is also not in dispute that Shagufta Naaz was never selected as Angan Bari Sewika and the candidate who was at Serial No.1 of the merit list was found under age, hence the



authorities had no other option but to send the petitioner for training which has not been done. Since now Shagufta Naaz has resigned after issuance of notice by this Court, which is the reason why she has not appeared in the present proceeding and her resignation letter has been accepted, the authorities have no option but to consider the case of the petitioner for sending her for training.

Accordingly, the writ application is disposed of with a liberty to the petitioner to file a representation before the authorities within a period of four weeks of receipt of the order and if the post in question is still vacant, then the representation of the petitioner should be considered within a period of four weeks thereafter, in view of the fact that though she was selected, she could not be sent for training due to own fault of the respondent authorities.

**(Dinesh Kumar Singh, J)**

Amrendra/-

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