

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.609 of 2015

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Nutan Kumari W/O Sri Rajesh Kumar R/o Village Sorhipur, P.S.
Warsaliganj, District- Nawada.

.... Petitioner

Versus

1. The State of Bihar through Principal Secretary, Social Welfare Department, Govt. of Bihar at Patna.
2. Principal Secretary, Social Welfare Department, Govt. of Bihar at Patna.
3. Director, I.C.D.S., Bihar, Patna.
4. Deputy Director, Welfare, Magadh Division, Gaya at Gaya.
5. The District Magistrate, Nawada at Nawada.
6. The District Programme Officer, Nawada.
7. The C.D.P.O., Warsaliganj Block, Warsaliganj.
8. Mukhiya Kochgaon Panchayat, Kochagaon, Warsaliganj.
9. Pratima Kumari w/o Nand Kishore Kumar R/o Village Sorhipur, P.S. Warsaliganj, District Nawada.
10. Suruchi Kumari W/o Gaurav Kumar R/o Village Sothipur, P.S. Warsaliganj, District Nawada.

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Amresh Kumar Sinha
For the Respondent/s : Mr. AC to SC-1

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CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR
ORAL ORDER

5 27-01-2017 Heard Sri Amresh Kumar Sinha, learned counsel
for the petitioner and learned AC to SC-1.

The petitioner, who had participated in the selection process for appointment of Anganbari Sewika for Anganbari Centre, Sorhipur in Kochgaon Panchayat under Warsaliganj Blcok, District-Nawada, which was initiated in the year 2007 pursuant to guidelines of the appointment of Anganbari Sevika/ Sahayika, 2006, has approached this Court, invoking its writ jurisdiction under Article 226 of the Constitution of India for the



following relief(s):

(i) To issue an appropriate writ/orders/certiorari in the nature of setting aside the order dated 08.08.2013 passed by Deputy Director, Welfare , Magadh Division, Gaya in Anganbari Appeal No.308/12 by which the order dated 04.09.2012/26.09.2012 passed in Anganbari Case no.135(M)/10, 34(M)/2011 and 11(M)/2012 passed by the District Magistrate, Nawada , has been assailed.

(ii) Further to issue an appropriate writ certiorari in nature setting aside the order dated 4.9.12/26.9.12 passed in Angabari Case no.135(M)/10, 34(M)/2011 and 11 (M)/2012 passed by the District Magistrate, Nawada by which the selection of respondent no.9 was cancelled but no direction was given for selection of petitioner.

(iii) Further to issue an appropriate writ certiorari in nature setting aside the entire selection procedure after the order dated 4.9.12/26.9.12 passed in Angabari Case no.135(M)/10, 34(M)/2011 and 11(M)/2012 passed by the District Magistrate,



Nawada.

(iv) To direct the respondents to cancel the appointment of respondent no.10 and further direction to appoint the petitioner as Anganbari Sevika.

(v) To any other relief(s) for which petitioners are entitled for in the facts and circumstances of the case.

It has been pleaded that the petitioner had participated in the selection process since she was having requisite qualification. In the said selection process, Aam Sabha was held on 04.05.2007 and a merit list was prepared. In the said merit list, name of Respondent no.9 was mentioned at Serial no.1 since it was shown that she had obtained merit marks as 69.22. However, the petitioner's name was shown at Serial no.2 having merit marks as 62.11. After Aam Sabha, Respondent no.9 was permitted to join as Anganbari Sevika in the year 2007 itself. Subsequently, the petitioner filed a case vide Case no.83(M)/2008 before the District Magistrate-cum- Collector, Nawada. The learned Collector vide its order dated 22.07.2008 directed for cancelling the appointment of Respondent no.9 on the ground of having no requisite qualification and directed to



proceed with the selection process. Respondent no.9, thereafter, in view of order passed in C.W.J.C.No.4007 of 2007 dated 30.06.2008 approached the Collector, Nawada for recalling his earlier order dated 22.07.2008 on the ground of treating the Madhyama Certificate issued by the Hindi Sahitya Sammellan, Prayag to be valid. The learned Collector by its order dated 19.09.2008 recalled its earlier order dated 22.07.2008 and directed that Respondent no.9 shall continue as Anganbari Sevika. After the order issued by the Collector vide Annexure-3 to the writ petition, learned counsel for the petitioner admits that Respondent no.9 was allowed to again function as Anganbari Sevika and she continued in the same capacity. However, subsequently, a Division Bench order has come, which says that Madhyama Certification issued by the Hindi Sahitya Sammellan , Prayag was not admissible. Accordingly, the petitioner filed a fresh case, which was registered as Case no.120 (M)/2010. Thereafter, the learned Collector, in view of Division Bench order, cancelled the appointment of Respondent no.9/ Pratima Kumari as Anganbari Sevika. Consequently, the learned Collector directed to initiate process for selection of Anganbari Sevika in view of vacancy, which had occurred after cancelling the appointment of Respondent no.9 as Anganbari Sevika in the light



of new selection guideline.

It has not been disputed by learned counsel for the petitioner that after cancellation of appointment of Respondent no.9, a fresh selection process was initiated and Aam Sabha was held on 16.11.2011. In the said Aam Sabha , a merit list was prepared, in which Respondent no.10/ Suruchi Kumari was shown as Serial no.1 and, thereafter, she (Suruchi Kumari) was appointed as Anganbari Sevika.

It has been argued by learned counsel for the petitioner that since the petitioner was at Serial no.2 in the merit list, prepared in the year 2007, after cancelling the appointment of Respondent no.9 on the ground of inadmissible certificate, the Respondents were required to appoint second person and since the petitioner was at Serial no.2, she was required to be accommodated. Accordingly, the petitioner again filed an application before the District Magistrate-cum- Collector, Nawada, which was registered as Case no.135 (M)/2010. However, the learned Collector did no interfere with the matter on the ground that now new selection guideline/ rule has been implemented, in which the Child Development Project Officer was authorized for conducting selection. After the said order was passed by the learned Collector on 04.09.2012/26.09.2012, the



petitioner again approached the Dy. Director, Welfare by way of filing an Anganbari Appeal no.308/12, which too was rejected on 08.08.2013 vide Annexure-9 to the writ petition.

Learned counsel for the petitioner has drawn my attention to page-47 of the writ petition, i.e. a communication address to all the Child Development Project Officers dated 11th June, 2012 issued by the Collector, Nawada, wherein it was indicated that in the matter, which were pending pursuant to direction of the High Court, the earlier selection process will be taken into account.

Learned State Counsel has opposed the prayer of the petitioner.

Besides hearing learned counsel for the parties, I have also examined the materials available on record. The Court is of the considered opinion that the writ petition is required to be rejected primarily on the ground that the petitioner has not at all challenged the earlier selection process, which was initiated and in view of new scheme, the selection of Respondent no.10 was made pursuant to decision of Aam Sabha, which was held on 16.11.2011. Moreover, the petitioner wants her selection on the basis of a merit list, which was prepared in the Aam Sabha held in the year 2007.



Keeping in view the fact that after the appointment of Respondent no.9 was cancelled on the ground of non-availability of requisite qualification, new selection process was initiated, in which the petitioner, as admitted, has not participated, nor she had earlier challenged the selection process, it would be difficult to grant any relief. Accordingly, no positive order can be passed in favour of the petitioner.

The writ petition stands dismissed.

(Rakesh Kumar, J)

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