

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.10165 of 2014

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1. Girija Devi @ Girija Kumari wife of Sri Shambhu Kumar Kushwaha, Resident of village- Laxamipur Paschim Tola, P.O.- Hussepur, P.S.- Bhore, District- Gopalganj Petitioner

Versus

1. The State of Bihar, through the Principal Secretary, Welfare Department, Government of Bihar, Patna
2. The Director, Social Welfare Department, Government of Bihar, Patna
3. The Divisional Commissioner, Saran at Chapra
4. The Collector, Gopalganj
5. The District Welfare Officer, Gopalganj
6. The District Programme Officer, Gopalganj
7. The Deputy Development Commissioner, Gopalganj
8. The Child Development Project Officer, Bhore, District- Gopalganj
9. The Mukhiya, Gram Panchayat Raj, Hussepur, Anchal Bhore, District Gopalganj
10. The Panchayat Secretary, Gram Panchayat Raj, Hussepur, Anchal Bhore, District Gopalganj
11. Usha Devi wife of Markandey Tiwary, Resident of village Ghanga Chhaper, P.S. Bhore, District- Gopalganj Respondents

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Appearance :

For the Petitioner : Mr. Naresh Prasad, Adv.
For the Respondents : Mr. Raju Giri, GP XXX

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA

ORAL JUDGMENT

Date: 21-11-2017

Heard both sides.

2. The petitioner seeks quashing of the order, dated 07.04.2014, passed by the Commissioner, Saran Division, Saran at Chapra, in Aganbari Appeal No. 41 of 2013 by which the order, dated 30.11.2012, passed by the Collector, Gopalganj, has been set aside.

3. The learned counsel for the petitioner assails the order of the Commissioner on the ground that the Commissioner has held that the petitioner is not the resident of nutritional area of Aganbari Center No. 149 and on this ground set aside the order, dated 30.11.2012, passed by the Collector, Gopalganj, in Aganbari Case No. 17 of 2011. Usha Devi, respondent no. 11, filed objection that the selection of the petitioner,



Girija Devi @ Girija Kumari, was not made in accordance with law and the Collector, Gopalganj, vide order passed in Aganbari Case No. 17 of 2011 directed to hold Aam Sabha and to select the suitable candidate in accordance with the directives. Thereafter, the petitioner was appointed on 31.03.2012. Usha Devi filed Aganbari Appeal No. 190 of 2011 before the Commissioner, Saran Division, Saran at Chapra, and the Commissioner vide order, dated 11.06.2012, set aside the order of the Collector, Gopalganj, and remanded the case to the Collector to decide afresh in accordance with law. Again, the Collector rejected the complaint of Usha Devi. Usha Devi preferred Aganbari Appeal No. 41 of 2013. It is, further, submitted that the Commissioner has illegally came to the conclusion that the petitioner, Girija Devi @ Girija Kumari, is not the resident of nutritional area of Aganbari Center No. 149. The Subdivisional Officer, Gopalganj, as well as the District Welfare Officer, Gopalganj, made enquiry and found that the house of the husband of the petitioner, Girija Devi @ Girija Kumari, falls in Laxmipur Pashchim Tola, which falls within the nutritional area of Aganbari Center No. 149, therefore, the order of the Commissioner is not legal on facts as well as in laws.

4. On the other hand, the learned counsel for the State-respondents submitted that the order of the Commissioner does not suffer from any illegality. The petitioner at the time of her selection filed residential certificate, which was to expire on 22.02.2007. The meeting of Aam Sabha was held on 28.03.2007. The Aam Sabha appointed the petitioner on consideration of residential certificate of the petitioner



which was not valid. Accordingly, her application for appointment should have been rejected. On that ground her case was remitted to the Collector for re-consideration, but, Collector, again, considered the residential certificate of the petitioner issued by authority at a later date. The Commissioner also held in his order that in the voter list the name of the petitioner does not appear. Names of husband and father-in-law of the petitioner appeared in the voter list, which falls in Ward No. 16. Ward No. 16 is not the nutritional area of Aganbari Center No. 149. However, the learned counsel for the petitioner submitted that of course the house of the father-in-law of the petitioner is situated in Ward No. 16 Laxmipur Purvi Tola, but, later on the husband of the petitioner constructed his house in Laxmipur Pashchim Tola, which is in the nutritional area of Aganbari Center No. 149 and, thus, the order of the Commissioner is bad.

5. Having considered the submissions of both the sides and on perusal of the records, I find that the petitioner, Girija Devi @ Girija Kumari, who was applicant for the post of Aganbari Sevika submitted her residential certified issued by the competent authority. The life of the certificate expired on 22.02.2007 and Aam Sabha for selection of Aganbari Sevika for Aganbari Center No. 149 was held on 28.03.2007, but, the petitioner was appointed on the basis of the certificate which had already expired. The Commissioner noticed this fact and held that the petitioner is not resident of the nutritional area of Aganbari Center No. 149 as certificate produced by her was not valid. Even from the perusal of the voter list, it transpired that the name of the petitioner does not



appear in the voter list. The names of her husband and father-in-law appear in the voter list of Ward No. 16, which does not fall within the nutritional area of Aganbari Center No. 149 and, accordingly, the Commissioner set aside the order of the Collector, Gopalganj, that the selection of the petitioner on the post of Aganbari Sevika is illegal.

6. Taking into consideration the facts, aforesaid, I do not find any illegality in the order of the Commissioner, Saran Divisional Saran at Chapra. Accordingly, the writ petition is **dismissed** as devoid of any merit.

(Prabhat Kumar Jha, J)

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AFR/NAFR	NAFR
CAV DATE	N/A
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