

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.11826 of 2012

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Manju Kumari, D/o Babu Ram Yadav, wife of Yogendra Yadav, resident of Village- Bibi Ke Bangra, P.S.- Barharia, District- Siwan, at present posted as Anganwari Sevika, Bal Vikash Pariyojna, Barharia

.... Petitioner

Versus

1. The State Of Bihar
2. The Principal Secretary, Social Welfare Department, Govt. of Bihar, Patna
3. The Director, I.C.D.S., Patna
4. The Commissioner, Saran Division, Chapra
5. The District Magistrate-cum-Chairman, District Selection Committee, Siwan
6. The District Programme Officer, Siwan
7. The Child Development Project Officer, Siwan
8. Urmila Kumari, wife of Ram Bahadur Prasad, resident of Village- Gai Ghat Tola, P.O.- Gaighat, Siwan
9. Sumitra Kumari, wife of Rakesh Kumar, resident of Village- Manjhwalia, P.O.- Hetimpur, Siwan
10. Urmila Sinha, wife of Bali Sugriva Prasad, resident of Village- Pinthu Khurd, P.O. - Soneversa, Daraunda, Siwan
11. Manju Devi, wife of Vishwanath Prasad, resident of Village- Tarhi, Raghunathpur, Siwan

.... Respondents

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Appearance :

For the Petitioner : Mr. Santosh Kumar Singh, Advocate.

For the Respondents : Mr. Santosh Chandra Bhaskar, AC to GP-11.

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 19-06-2017

Heard learned counsel for the petitioner and learned counsel for the State. With the consent of the parties, the writ petition is taken up for final disposal at this stage itself.

2. The present writ petition has been filed for quashing and setting aside the order of the Divisional Commissioner, Saran at Chapra on 04th May, 2012 vide Memo No. 176 by which the Commissioner



rejected the representation of the petitioner filed pursuant to order passed in C.W.J.C. No. 1553 of 2012, as well as the final merit list issued on 21.05.2012 for selection of Lady Supervisor by the Collectorate (District Programme Officer) I.C.D.S., Siwan in which the candidature of the petitioner was not considered, and for connected reliefs.

3. The short facts of the case are that the petitioner was appointed as Anganwari Sewika on 22.09.1998, *inter alia*, on the basis of Matriculation examination passed in the year 1995 from Bihar School Examination Board. She also acquired further qualifications, having passed the Sahityalankar Examination in 2002 and M.A. Examination in 2009 from Nalanda Open University in Correspondence Course. Thereafter, pursuant to advertisement, the petitioner applied for the post of Lady Supervisor, but however her marks for Intermediate Sahityalankar (Graduation/M.A.) were not considered for calculating merit points on the ground that she had not produced a written consent letter for obtaining higher qualification.

4. Learned counsel for the petitioner submits that the issue in question is squarely covered by an order of this Court dated 15.02.2012 passed in C.W.J.C. No. 1553 of 2012 wherein it has been observed as follows:-

“Without going into the controversy whether the petitioner pursued higher qualification on sanctioned leave or without permission, the Court finds it difficult to accept the stand of the respondents that the petitioner



committed a sin by obtaining higher qualification. An Anganwari Sewika is not a Government Servant and therefore the principles applicable to government servants for pursuing higher educational qualifications in service cannot apply to the petitioner."

5. In this regard, attention has also been invited to the order dated 10.11.2014 passed in C.W.J.C. No. 23102 of 2012 (*Manju Kumari vs. The State of Bihar and Ors.*) in which the aforesaid order dated 15.02.2012 has been taken note of and followed.

6. Learned counsel for the State appears and has been heard. The thrust of objection in the counter affidavit relates to appropriate permission not having been obtained by the petitioner for purposes of acquiring higher degree and it is therefore submitted that the petitioner has rightly been denied the bonus marks in relation thereto for purposes of considering her selection as Lady Supervisor. Notices issued to respondent nos. 8 to 11 have duly been served but none appears on their behalf when the matter is called today.

7. Having heard learned counsel for the petitioner and the State, this Court finds merit in the writ petition. The core issue relates to denial of bonus marks to the petitioner on the ground that she had not obtained permission for acquiring higher degrees of Sahityalankar and M.A. This issue is no longer *res integra* and stands decided by a Bench of this Court in C.W.J.C. No. 1553 of 2012 and subsequently followed in C.W.J.C. No. 23102 of 2012, in effect holding that such prior



permission of the authorities is not required.

9. The writ petition accordingly stands allowed and the impugned order of the Divisional Commissioner, Saran, Chapra dated 04.05.2012 (Annexure-14) is hereby quashed with a direction that the petitioner's case be considered for award of bonus marks after appropriate verification of her higher qualification for the purpose of selection as Lady Supervisor. I.A. No. 1750 of 2015 also stands disposed.

(Vikash Jain, J)

Md. Ibrarul/BT

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	21.06.2017
Transmission Date	N.A.

