

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.4377 of 2014

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1. Manju Jha Wife Of Lalit Kumar Jha Resident Of Village - Maujaha, P.S. - Kishanpur, District - Supaul

.... Petitioner/s

Versus

1. The State Of Bihar Through The Principal Secretary, Department Of Social Welfare, Govt. Of Bihar, Patna
2. The Divisional Commissioner, Koshi Division, Saharsa
3. The District Magistrate, Supaul
4. The District Programme Officer, Supaul
5. The Sub-Divisional Officer, Supaul
6. The Block Development Officer, Kishanpur, District - Supaul
7. The Child Development Project Officer, Block - Kishanpur, District - Supaul
8. The Mukhiya, Gram Panchayat Raj - Maujaha, Block - Kishanpur, District - Supaul
9. The Panchayat Secretary, Gram Panchayat Raj - Maujaha, Block - Kishanpur, District - Supaul
10. Kumari Manju Wife Of Satyanarayan Kumar Suman Resident Of Village - Sujanpur, Gram Panchayat Raj - Maujaha, Block - Kishanpur, District - Supaul

.... Respondent/s

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Appearance :

For the Petitioner : Mr. Pramod Mishra, Advocate.
For the State : Dr. Raj Kumar Singh, AC to SC7
For the Respondent 9 : Mr. Girijanand Prasad, Advocate.

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA

ORAL JUDGMENT

Date: 24-07-2017

Heard both sides.

2. The petitioner seeks quashing of the order dated 21.12.2013 passed by the Divisional Commissioner, Koshi Division, Saharsa in Anganwari Appeal Case No. 214 of 2012 (Annexure-8) and the order dated 24.05.2012 passed by the District Magistrate, Supaul in Misc. Case No. 26 of 2011 (Annexure-7) whereby the District Magistrate, Supaul cancelled the appointment of the petitioner



from post of Anganwari Sahayika and the Commissioner also dismissed the appeal confirming the order of the Collector, Supaul.

3. The petitioner Manju Jha was appointed as Anganbari Sahayika at Centre No. 9, Ward No. 3, Gram Panchayat Raj- Maujaha and Kalpna Jha Anganwari Sevika for the same centre by one Aam Sabha hold on 04.11.2007. One Kumari Manju filed objection with regard to the illegality of the Aam Sabha for selection of Aanganwari Sahayika and Aanganwari Sevika on such, the District Magistrate, Supaul after hearing both sides vide his order dated 24.05.2012 cancelled the appointment of Anganwari Sevika and Aanganwari Sahayika at Centre No. 9. Kalpna Jha Anganwari Sevika filed appeal before the Commissioner, Koshi Division, Saharsa and the Commissioner, Koshi Division, Saharsa on 09.11.2012 set aside the order of the Collector, Supaul and found that the appointment of Kalpna Jha as Aanganwari Sevika was legal. The petitioner Manju Jha also filed the appeal before the Commissioner, Koshi Division, Saharsa vide Anganwari Appeal Case No. 214 of 2012 but, the Commissioner, Saharsa vide his order dated 21.12.2013 dismissed the appeal of the petitioner holding her appointment as Aanganwari Sahayika illegal and thereby confirmed the order of the Collector, Supaul.

4. Shri Pramod Mishra, learned counsel for the petitioner



assailed the order on the ground that the District Magistrate, Supaul cancelled the selection of Aanganwari Sevika and Sahayika on the ground that Aam Sabha was not held in accordance with law and the mapping was also not done in accordance with law. The appeal of Kalpna Jha, Aanganwari Sevika was allowed and the Commissioner found that no illegality was committed in appointment of Aanganwari Sevika and accordingly set aside the order of the Collector, Supaul but, the same Commissioner dismissed the appeal of Manju Jha, the petitioner, holding that the selection of petitioner as Aanganwari Sahayika is illegal. It is further submitted that Kumari Manju, the complainant, on whose complain the appointments of Aanganwari Sevika and Sahayika were cancelled, preferred C.W.J.C. No. 6863 of 2013 against the order of the Commissioner by which the appointment of Kalpna Jha was upheld by the Commissioner and this Court set aside the order of the Commissioner holding that the order was passed in violation of natural justice and remanded the case to pass order afresh after hearing both the sides.

5. Learned counsel for the petitioner further submits that, let the order of the Commissioner be set aside as by a composite order the Collector, Supaul cancelled the selection of the petitioner and Kalpna Jha against which, Kalpna Jha also preferred appeal before the Commissioner which was allowed and the petitioner also preferred



appeal but, the appeal of the petitioner was dismissed. Therefore, once the selection of Kalpna Jha is found legal the selection of the petitioner by the one resolution of Aam Sabha cannot be held to be illegal.

6. Learned counsel for the State as well as learned counsel for the respondent no. 9 submitted that the order of the Commissioner is liable to be set aside and the matter be remitted to the Commissioner to hear the case afresh along with appeal of Kalpna Jha and decide the same after hearing both the parties.

7. Having considered the submissions of the parties, I find that by one resolution of Aam Sabha, Manju Jha and Kalpna Jha were appointed on the post of Anganbari Sahayika and Sevika. The Collector found the appointments of both Manju Jha and Kalpna Jha illegal and cancelled the same. Both Kalpna Jha and Manju Jha preferred appeal before the Commissioner against one composite order, cancelling the appointments of Kalpna Jha and Manju Jha but, the Commissioner set aside the order of the Collector holding the appointment of Kalpna Jha legal and at the same time dismissed the appeal of the petitioner Manju Jha holding her appointment illegal.

8. Therefore, two orders of the Commissioner are contradictory to each other and, therefore, the same is not sustainable. Accordingly, the order dated 21.12.2013 passed by the Divisional



Commissioner, Koshi Division, Saharsa in Anganwari Appeal Case No. 214 of 2012 (Annexure-8) is set aside and the matter is remitted to the Commissioner to pass order afresh after hearing both the sides along with the appeal of Kalpna Jha.

9. Accordingly, this writ petition is allowed.

(Prabhat Kumar Jha, J)

KKSINHA/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	16.08.2017
Transmission Date	NA

