

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.5560 of 2014

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1. Baby Sharma Wife Of Sri Raman Kumar Sharma Resident Of Village - Ratwara,
P.S. Sadar, District Muzaffarpur

.... Petitioner/s

Versus

1. The State Of Bihar through the Principal Secretary, Social Welfare Department,
Bihar, Patna
2. The Commissioner, Tirhut Division, Muzaffarpur
3. The District Magistrate, Muzaffarpur
4. The District Programme Officer, Muzaffarpur
5. The Child Development Project Officer, Musahari Block, Muzaffarpur
6. The Mukhiya Gram Panchayat Raj Susta, Musahari Block, Muzaffarpur
7. The Panchayat Secretary, Gram Panchayat Raj Susta, Musahari Block,
Muzaffarpur

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Vinay Ranjan

For the Respondent/s : Mr. Anil Kumar Singh GP 26

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA

ORAL JUDGMENT

Date: 25-07-2017

Heard both sides.

The petitioner prayed for quashing the order dated 21.12.2012, as contained in memo No. 1414, passed by the District Programme Officer, Muzaffarpur by which the District Programme Officer cancelled the selection of the petitioner as Anganwari Sevika. The petitioner further prayed to quash the order dated 25.11.2013 passed in Appeal No. 7/2013 by the Divisional Commissioner, Muzaffarpur whereby the appeal of the petitioner was dismissed, confirming the order of the District Programme Officer, cancelling the appointment of petitioner as Anganwari Sevika.

The petitioner was appointed as Anganwari Sevika for centre No.99 vide letter No. 16/2007 dated 05.11.2007. One Rajesh Kumar presented a complaint before the District Magistrate, Muzaffarpur against the selection of the petitioner on the ground that



in view of provisions as contained in clause 3 (Ang) of Anganwari Sevika and Sahaika Margdarshika, 2006, (hereinafter referred to as the Rules), relatives of public servants (Mukhiya, members of Panchayat Samiti, ward members, members of Zila Parishad etc.) shall not be appointed on the post of Anganwari Sevika and Sahaika. The petitioner happens to be sister-in-law (Bhabhi) of Mukhiya of Gram Panchayat, Susta. On such, an enquiry was held by the District Programme Officer and he found that petitioner happens to be sister-in-law of Mukesh Sharma, Mukhiya of Gram Panchayat, Susta. Accordingly, the District Programme Officer cancelled the selection of the petitioner. The Divisional Commissioner, Muzaffarpur also confirmed the order of cancellation of selection of the petitioner.

The learned counsel for the petitioner assailed the orders on the ground that petitioner happens to be sister-in-law of Mukhiya and clause 3(Ang) of the Rules stipulates that relatives of public servants (Mukhiya, members of Panchayat Samiti, ward members, members of Zila Parishad etc.) shall not be appointed but the clause speaks about relatives as daughter, daughter-in-law, wife and grand daughter-in-law of the public servant and sister-in-law does not come within the purview of relative as per clause (Ang) of the Rules. Therefore, the cancellation of selection of the petitioner is bad.

The question falls for consideration whether sister-in-law of Mukhiya falls within the category of relative?

I firstly reproduce Clause 3 (Ang) of Margdarshika, 2006 which is as follows:-

(अ) लोक सेवकों (मुखिया, पंचायत समिति के सदस्य/गार्ड सदस्य/जिला परिषद के सदस्य आदि) स्वयं या उनके रिश्तेदार () विभिन्न कृषकरी सामग्रियों के विक्रेताओं (जैसे जन वितरण प्रणाली विक्रेता, घुनानु किराने तेल के विक्रेता (Dealer), अन्तर्विभागीय डाकखाना कर्मी (Intra-departmental Post Office Employee इत्यादि) ... सरकारी एवं अर्द्धसरकारी सेवकों के रिश्तेदार बच्चा, बेटा/पत्नी/पुत्रकन्या/पौत्रकन्या का वर्णन इस मद के लिए नहीं किया जाएगा ।

It appears that the provision only enumerates the daughter, wife, daughter-in-law and grand daughter-in-law but these are some examples and all close



relatives of public servants are prohibited from the selection of Anganwari Sevika and Sahaika and, admittedly, the petitioner is sister-in-law (Bhabhi) of Mukhiya and the Mukhiya played vital role in selection of Anganwari Sevika and Sahaika of Anganwari centers. Such selection of relative of member of selection committee cannot be free from biasness. The sister-in-law (Bhabhi), wife of own brother of Mukhiya, comes within the definition of relative of public servant.

Therefore, I do not find any illegality in the impugned orders. The writ petition is devoid of any merit and is, accordingly, dismissed.

(Prabhat Kumar Jha, J)

BKS/-

AFR/NAFR	NAFR
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