

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.7531 of 2014

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Usha Kumari, Wife of- Sri Jawahar Mandal, resident of village + P.O.- Jholhaniya,
P.S.- Pipra, District- Supaul.

.... Petitioner/s

Versus

1. The State of Bihar, through the District Magistrate Supaul
2. District Magistrate, Supaul
3. The Commissioner, Koshi Division, Saharsa
4. The District Programme Officer, Supaul
5. The Child Development Programme Officer, Pipra, Supaul
6. Sarita Kumari wife of Shrawan Kumar, village- Jholhaniya, Panchayat- Pathra
Uttar Prakhanda, P.S.- Pipra, District- Supaul.

.... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Kumar Vikram, Adv. Mr. Apurva Kumar, Adv.
For the Respondent/s	:	Mr. MD. N. HODA KHAN, SC-1 Ms. Babita Kumari, AC to SC-1

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA

ORAL JUDGMENT

Date: 27-07-2017

Learned counsel for the petitioner and learned SC-1 are present. No one appears on behalf of respondent no. 6.

2. The petitioner prays for quashing the order dated 31.03.2012 as contained in Memo No. 446 passed in Case No. 04/12 by the District Magistrate Supaul by which the District Magistrate, Supaul cancelled the selection of the petitioner from the post of Angan Bari Sahayika of centre no. 71. The District Magistrate also held the mark-sheet/certificate submitted by the petitioner to be not proper and in accordance with law and directed to take action for recovery of



honorarium paid to the petitioner as Angan Bari Sahayika. The petitioner has further prays to quash the order dated 12.11.2013 passed in Angan Bari Appeal Case No. 135/2012 by the Commissioner, Koshi Division, Saharsa, rejecting the appeal of the petitioner.

3. The petitioner assailed the aforesaid orders that the Collector has got no power to hold that the mark-sheet of intermediate examination of the petitioner is not in accordance with law. The District Magistrate Supaul illegally held that the petitioner was absent from the Angan Bari Centre, as there is no material on record to show that the petitioner was ever absent from the Angan Bari centre. The petitioner was working as Angan Bari Sahayika and she also continued her study and passed her intermediate examination. The District Magistrate has got no business to declare the certificate of the petitioner invalid. Therefore, the order of the District Magistrate and the appellate order of the Commissioner are bad and not sustainable.

4. The State has filed counter affidavit, but the learned counsel for the State has not brought on record any fact that the petitioner was absent from duty while she was studying in College during the period of 2004-06.

5. Having considered the submissions of both sides, I find that the petitioner was working as Angan Bari Sahayika at Centre no. 71. The petitioner also pursued her studies after duty of Angan Bari



Sahayika. The petitioner attended her college and passed her intermediate examination. When the post of Angan Bari Sevika fell vacant, the petitioner applied for selection and petitioner was also placed at Sl. No. 1 in the merit in the selection list, but the District Magistrate, Supaul, without giving any plausible reason, cancelled the selection of the petitioner, simply on the ground that while the petitioner was working as Angan Bari Sahayika, she also appeared in the intermediate examination and illegally got the degree of intermediate Arts.

6. Considering the facts aforesaid, I find that the order dated 31.03.2012 (as contained in Annexure-8) of District Magistrate, Supaul and the order dated 12.11.2013, (as contained in Annexure-10) of the Commissioner, Koshi Division, Saharsa, cancelling the appointment of the petitioner are not sustainable, accordingly, both the orders are set aside. Thus, the writ petition is allowed.

(Prabhat Kumar Jha, J.)

Vinita/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	07.09.2017
Transmission Date	NA

