

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No. 10885 of 2008

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Soni Kumari wife of Shri Binod Kumar and Daughter of Shri Nawal Kishore Yadav, resident of village Momindpur, P.S. Fatuha, District – Patna.

.... Petitioner

Versus

1. The State of Bihar
2. The District Magistrate, Patna.
3. The Executive Magistrate, Patna City.
4. The Child Development Project Officer, Fatuha, Patna.
5. The Mukhiya, Gram Panchayat Momindpur, Block Fatuha, District – Patna.
6. The Panchayat Secretary, Gram Panchayat Momindpur, Block Fatuha, District Patna.
7. Pushpa Kumari wife of Sri Jamindar Singh and Daughter of Ramjee Singh, resident of village Momindpur, P.S. Fatuha, District Patna.

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Shailendra Kumar Sinha
For the Respondent/s : AC to SC - 11
Mr. Navendu Kumar

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CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR

ORAL JUDGMENT

Date: 25-04-2017

Heard Sri Shailendra Kumar Sinha, learned counsel for the petitioner, learned A.C. to Standing Counsel – 11 as well as Sri Navendu Kumar, learned counsel, who has appeared on behalf of respondent no. 7.

2. The petitioner has approached this Court invoking its writ jurisdiction under Article 226 of the Constitution of India, with a prayer to quash the candidature of respondent no. 7, as Anganwari Sevika of Momindpur Centre, Momindpur Gram Panchayat, Fatuha Block in the district of Patna, on a plea that at the time of selection, she (respondent no. 7) had shown her date-of-birth as 02-03-1981.



However, subsequently her date-of-birth was corrected by Bihar Sanskrit Shiksha Board, as "02-03-1971", in place of "02-03-1981".

3. It has been admitted by learned counsel for the petitioner that in Aam Sabha, held on 14-02-2007, a merit list was prepared for selection of Anganwari Sevika. In the said merit list, on the basis of percentage of marks, the respondent no. 7 was placed at serial no. 1, whereas, the petitioner was placed at serial no. 2. It has not been disputed that respondent no. 7 was having higher marks than the petitioner. On the question of seniority list, there is no dispute, but only dispute has been raised that at initial stage, the respondent no. 7 had shown her date-of-birth as 02-03-1981, however; at subsequent stage, her date-of-birth was corrected, as 02-03-1971. It has been pleaded that after noticing the date-of-birth shown by the respondent no. 7 as well as her son and daughter, whose date-of-birth was 26-01-1987 and 23-11-1987 respectively, the petitioner filed a complaint before the District Magistrate as well as she represented before the concerned C.D.P.O. and on her representation, the C.D.P.O. sought clarification from the Bihar Sanskrit Shiksha Board. At first instance, the Board confirmed her date-of-birth as 02-03-1981, however; at subsequent stage, the date-of-birth of respondent no. 7 was corrected as 02-03-1971. According to Sri Sinha, learned counsel for the petitioner, the respondent no. 7



committed a fraud by showing her incorrect date-of-birth, however; he candidly accepted that even if her date-of-birth was not subsequently corrected as “02-03-1971”, the respondent no. 7 was eligible to be selected as Anganwari Sevika. Meaning thereby that the date-of-birth of respondent no. 7 was not having any direct bearing for adjudication of selection.

4. In such view of the matter, the Court is of the opinion that the allegation of the petitioner regarding committing fraud by the respondent no. 7 in respect of her date-of-birth may not be gone into by this Court, since such question is purely disputed question of fact. Since, there is no allegation in respect of selection process, the Court is of the view that no relief can be granted.

5. The writ petition stands dismissed.

(Rakesh Kumar, J.)

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AFR/NAFR	NAFR
CAV DATE	N/A
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