

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.16489 of 2013

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Smt. Jai Mala Devi W/o. Sri Jibachh Prasad Sahu R/O- Village- Tumoul, P.S.-
Ghanshyampur, District- Darbhanga

.... Petitioner

Versus

1. The State of Bihar
2. The Principal Secretary, Social Welfare Department, Govt. of Bihar, Patna
3. The Director, Integrated Child Development Programme, Bihar, Patna
4. The Commissioner, Darbhanga Division, Darbhanga
5. The Collector-Cum-District Magistrate, District- Darbhanga
6. The District Programme Officer, District- Darbhanga
7. The Sub-Divisional Officer, Biroul, Darbhanga
8. The Block Development Officer, Block- Ghanshyampur, District- Darbhanga
9. The Child Development Programme Officer, Block- Ghanshyampur, District- Darbhanga
10. The Mukhia Gram Panchayat Raj Tumaul, Block- Ghanshyampur, District- Darbhanga
11. Smt. Usha Devi Wife Of Sri Arun Kumar Sahu R/O Village- Chharapatti (Tumaul) P.S. & Block- Ghanshyampur, District- Darbhanga

.... Respondents

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Appearance :

For the Petitioner : Mr. Rajeev Kumar Singh, Advocate
Mr. Sitaram Prasad, Advocate
Mr. Anjani Kumar, Advocate

For the Respondent : None

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 18-09-2017

The present writ petition has been filed for quashing the order dated 23.08.2011 contained in memo no. 1496 dated 29.08.2011 passed in Case No. 101/2010-11 by the Collector, Darbhanga, whereby and whereunder the appeal filed by respondent no. 11 has been dismissed and has further held that the selection/appointment of petitioner on the post of Anganwari Sevika is against the guidelines



and has cancelled the selection of the petitioner and further directed the District Programme Officer, Darbhanga and Child Development Project Officer, Ghanshyampur, to initiate fresh selection process for Anganwari Centre 14, Chhadapatti, Block Ghanshyampur, District Darbhanga; to quash the order dated 10.04.2013 passed in Appeal Case No. 42 of 2011 issued by the Commissioner, Darbhanga Division, Darbhanga whereby and whereunder appeal filed by the petitioner against the order dated 23.08.2011 (Annexure-1) has been rejected; a direction to the respondents to pay the monthly remuneration to the petitioner from September, 2011 till date with appropriate statutory interest; and not to disturb the petitioner from discharging her duty as Anganwari Sevika at Anganwari Centre 14, Chhadapatti, Block Ghanshyampur, District Darbhanga (hereinafter referred to as 'the Anganwari Centre').

2. Learned counsel for the petitioner raises a short submission to challenge the impugned orders. It is pointed out that the petitioner was appointed as Anganwari Sevika on 09.05.2005. The matter of the selection process in which the petitioner was selected came to be adjudicated in LPA No. 233 of 2016 (Annexure-15) filed by Archana Devi and others including the petitioner, which was filed against the order dated 24.02.2006 in CWJC No. 10681 of 2004 which had been allowed in favour of the respondent no. 11 (Annexure-14). The said LPA was allowed and the writ petition dismissed after finding



that no challenge to the proceedings of the Aam Sabha meeting held on 08.12.2004 had been made in the writ petition whereby the present petitioner and others had been selected as Anganwari Sevikas. The decision in LPA No. 233 of 2006 attained finality as the SLP (Civil) No. 4864 of 2009 preferred by the respondent no. 11 also stood dismissed by order dated 06.04.2009.

3. Learned counsel for the petitioner submits that respondent no. 11 once again approached this Court in CWJC No. 2013 of 2010 suppressing all the above facts and managed to obtain an order dated 06.08.2010 (Annexure-10) that her representation be considered and disposed of by a reasoned order after hearing the parties.

4. Pursuant to the said order passed in CWJC No. 2013 of 2010, the impugned order dated 23.08.2011 was passed by the Collector in Case No. 101/2010-11. While doing so however, the Collector completely ignored the detailed petition which had been filed by the petitioner before him bringing on record how her appointment had attained finality after dismissal of SLP (Civil) No. 4864 of 2009 and the decision of Aam Sabha dated 08.12.2004 had not been interfered with. While the appellate authority has noticed the fact of dismissal of SLP (Civil) No. 4864 of 2009, he once again entered into the question of validity of the selection process and dismissed the petitioner's appeal.

5. None appears on behalf of the respondents despite repeated calls, nor any counter affidavit has been filed on their behalf.



6. Having heard learned counsel for the petitioner and on a consideration of the materials on record, this Court finds merit in the writ petition. Once the appointment of the petitioner attained finality with a clear finding that the decision of the Aam Sabha in its meeting dated 08.12.2004 in which the petitioner was appointed had not been challenged by the respondent no. 11 in LPA No. 233 of 2006 and also that the SLP (Civil) No. 4864 of 2009 preferred against the said LPA stood dismissed, it was not open to the appellate authority to delve into the same question over again. The alleged irregularities referred to in the appellate order in connection with the proceedings of Aam Sabha dated 08.12.2004 were not open to discussion in view of the order of this Court in LPA No. 233 of 2006. The impugned order dated 29.08.2011 passed by the Collector, Darbhanga equally appears to have been passed without due application of mind inasmuch as the petitioner's detailed petition filed before him which has not been taken note of, much less discussed.

7. In the above view of the matter, the impugned orders dated 29.08.2011 contained in memo no. 1496 dated 29.08.2011 passed in Case No. 101/2010-11 by the Collector, Darbhanga and the appellate order dated 10.04.2013 passed in Appeal Case No. 42 of 2011 by the Commissioner, Darbhanga Division, Darbhanga are hereby set aside with all consequential benefits, in accordance with law.

8. The writ petition stands allowed.



(Vikash Jain, J)

Chandran/lbrar

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	20.09.2017
Transmission Date	N.A.

