

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.2104 of 2016

In
Civil Writ Jurisdiction Case No. 12547 of 2015

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Saroj Kumari Devi W/o Chhote Pandey resident of Village - Narauli, P.O. -
Amarpur, P.S. - Darauti, District - Siwan.

.... Appellant/s

Versus

1. The State of Bihar through the Principal Secretary, Social Welfare Department, Government of Bihar, Patna.
2. The District Magistrate Cum Collector, Siwan.
3. The District Programme Officer, Siwan.
4. The Child Development Project Officer, Darauli.

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Manindra Nath Tiwari

For the Respondent/s : Mr. Kaushal Kumar Jha- Aag8

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE ANIL KUMAR

UPADHYAY

ORAL ORDER

(Per: HONOURABLE THE CHIEF JUSTICE)

6 12-07-2017 The learned writ court in a matter pertaining to engagement of Aganbari Sevika in the impugned order dated 30.09.2016 passed in C.W.J.C. No. 12547 of 2015 has relegated the petitioner to take recourse to the alternative remedy available.

On going through the facts and circumstances of the case, we find that an advertisement was issued in the year 2003, the process of selection undertaken and the petitioner was appointed as Aganbari Sevika to the centre in question and she was issued an appointment order on 9.2.2004. Further in the



meanwhile it seems that in the year 2006 one Renu Devi was appointed to the centre in question and therefore, petitioner approached this court by filing CWJC No. 10384 of 2006 inter alia contending that without cancellation of her appointment, appointment of Renu Devi is unsustainable.

The said writ petition was disposed of directing the petitioner to approach the District Magistrate with regard to her grievances. Accordingly, petitioner approached the DM and proceeding was initiated by the District Magistrate and vide order dated 12.7.2013 contained in Annexure-6 the District Magistrate, Siwan enquired into the complaint of the petitioner and found that the appointment of Renu Devi was not proper. The learned District Magistrate found certain error and irregularity on the part of the Mukhia and instead of directing for re-engagement of the petitioner after finding selection of Renu Devi to be unsustainable directed for holding fresh selection in the matter which was impugned in the writ petition.

Aggrieved by this order to the extent of not directing for re-engagement of the petitioner and only order being for fresh selection, the petitioner filed an appeal before the Commissioner, Siwan Division and the Commissioner rejected the appeal on 17.1.2015. In the meanwhile, from the counter affidavit filed by



the State Government, we find that after orders were passed by the Collector fresh advertisement was issued. The petitioner in pursuance of the said advertisement, submitted her candidature vide Annexure-B on 17.11.2014 and participated in the process of selection and the select list Annexure-C was notified in which petitioner's name appeared at Serial No. 5 as per merit. Further after having submitted her candidature on 17.11.2014 in pursuance of the advertisement, Annexure-A, bearing advertisement no. 2 of 2014 which was purportedly issued after orders were passed by the Collector on 12.7.2013. The petitioner had approached this court by filing C.W.J.C. No. 12574 of 2011 on 5.8.2015 and the prayer made in the said writ petition was to quash order (Annexure-6) dated 12.7.2013 passed by the Collector whereby direction was given to District Programme Officer to hold fresh selection.

Counsel for the petitioner vehemently argued that petitioner only wanted implementation of the order passed by the Collector on 12.7.2013 and till date the selection process in pursuance of the selection held by notification at Annexure-A has not been complied. We are of the considered view that once the order passed by the Collector on 12.7.2013 attained finality and the State Government initiated process for fresh selection by



issuing advertisement at Annexure-A and the petitioner in pursuance of the aforesaid advertisement submitted her candidature dated 17.11.2014 and participated in the selection process. Then, the petitioner is precluded and debarred or prohibited under law to challenge the order passed by the Collector on 12.7.2013.

The petitioner having accepted order dated 12.7.2013, submitted to its jurisdiction, by participating in the selection process and having not filed writ petition to challenge the selection process before participating for the same, We see no reason to make any indulgence into matter.

Accordingly, the petition is dismissed. In case, any statutory remedy is available for challenging the fresh selection the petitioner may take recourse to the same as granted by the learned writ court.

(Rajendra Menon, CJ)

Ravi/-

(Anil Kumar Upadhyay, J)

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