

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.6016 of 2016

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Anu Kumari, Wife of Sri Dipak Kumar, Resident of Village + Post - Gaini, P.S. Khudwan, District – Aurangabad.

.... Petitioner/s

Versus

1. The State of Bihar.
2. The Principal Secretary, Social Welfare Department, Government of Bihar, Patna.
3. The Director, Social Welfare Department, Government of Bihar, Patna.
4. The District Magistrate, Aurangabad.
5. The District Programme Officer, Aurangabad.
6. The Block Development Officer, Obra, P.S. Obra, District – Aurangabad.
7. The Child Development Project Officer, Obra, P.S. Obra, District– Aurangabad.
8. The Mukhiya, Gram Panchayat Raj Gaini, P.S. Khudwan, District- Aurangabad.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Mrigank Mauli, Adv.
Mr. Mrityunjaya Kr. Gautam, Adv.
For the Respondent/s : DR. Anshuman, SC-14

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

ORAL JUDGMENT

Date: 06-04-2018

Heard the parties.

Rather a limited grievance is raised in the present writ petition by an applicant to the post of Anganbari Sevika, Centre No.137, Gaini West in the district of Aurangabad. She seeks compliance of the order passed by the District Programme Officer.

The undisputed facts of the case are that following the selection process held, one Sangeeta Kumari claiming to be a divorcee was appointed as Anganbari Sevika. Her appointment was questioned by this petitioner in Anganbari Sevika/Sahayika Appeal Case No.03 of 2014. The District Programme Officer, Aurangabad on examination of the record upheld the complaint as well as the



forgery committed by the said appointee Sangeeta Kumari whose decree of divorce was found to be forged and consequently her appointment was set aside. Such order of the District Programme Officer bearing Memo No.18 dated 7.1.2015 is at Annexure 7 to the writ petition. The said order also accompanies the direction to the Child Development Project Officer, Obra to prepare a fresh merit list. On the failure of the Child Development Project Officer, Obra to comply with the direction aforementioned that the petitioner came before this Court in the present writ petition.

A counter affidavit is filed. The prayer is opposed, inter alia, on grounds that by passage of time the population structure has undergone a change as regarding the status of majority class. Prima-facie the objection so taken in defence of the non-compliance of the direction of the District Programme Officer, Aurangabad is unsustainable because where a selection process remains in force and has not attained finality as reflected from the order of the District Programme Officer, Aurangabad, it is the circumstances existing at the time of such initiation which would be determinative of status of majority class and a subsequent change in population structure would not make a difference.

However, and despite the legal position standing such, yet no direction can be issued for completion of the exercise in the light of the direction present at Annexure 7 because it is fairly admitted



by Mr. Mrigank Mauli, learned counsel appearing for the petitioner in reference to the pleadings made in I.A. No.2683 of 2018 that in the meanwhile a selection has taken place vide resolution dated 8.5.2017 and one Rinku Kumari has been appointed as Anganbari Sevika. A copy of the appointment letter has been placed on record vide Annexure 9 to the interlocutory application which also accompanies the proceedings of the Aam Sabha.

In my opinion, the appointment gives a fresh cause of action for the petitioner and, if so advised, she would be at liberty to pursue the same in accordance the legal right available to her under the guidelines regulating the appointment of Anganbari Sevika.

In the changed circumstances, I am not persuaded to examine the claim of the petitioner and with such observation and liberty above, this writ petition together with the interlocutory application are disposed of.

(Jyoti Saran, J)

SKPathak/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	10-04-2018
Transmission Date	NA

