

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2838 of 2011

=====

Smt. Nilam Kumari @ Kumari Nilam Singh W/O Baban Singh Resident of Village
Benipur, P.O. Karauta, P.S. Bakhtiarapur, District Patna

.... Petitioner

Versus

1. The State of Bihar through the Secretary, Welfare Department, Govt. of Bihar, Patna
2. The District Magistrate, Patna
3. The District Welfare Officer, Patna
4. The District Programming Officer, Patna
5. The Sub Divisional Officer, Barh
6. The Child Development Project Officer, Barh
7. Smt. Mamta Kumari, wife of Sudhir Kumar, resident of village – Benipur, P.O. Karauta, P.S. – Bakhtiyarpur, District – Patna.

.... Respondents

=====

Appearance :

For the Petitioner	:	Mr. Uday Prasad Singh, Advocate
For the Respondent No.7:		Mr. Rajendra Narayan, Sr. Advocate
		Mr. Dineshwar Pd. Singh, Advocate
For the State	:	Mr. Kaushal Kumar Jha, AAG-8

=====

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL JUDGMENT

Date: 03-01-2018

Heard learned counsel for the petitioner and
learned senior counsel representing the respondent no. 7.

Initially, this petitioner was selected as
Anganbari Sevika at Anganbari Centre No. 159 at Benipur-
Sunderpur under the Bidhipur Narauli Panchayat,
Bakhtiyarpur, district - Patna. Case of the petitioner is that
she was continuously working there from 2007 after her
selection, but in October, 2009 she was removed without
giving any notice. The appeal preferred by the petitioner
also failed but ultimately in the writ application preferred by



the petitioner vide CWJC No. 12617/2009, a co-ordinate Bench of this Court set aside the order of termination dated 05.09.2008 but did not direct for her reinstatement, rather the District Programme Officer was directed to pass a fresh appropriate order on merit in accordance with law. A copy of the order dated 06.10.2009 passed in CWJC No. 12617/2009 is placed at Annexure-8 series to the writ application.

Pursuant to the order of the writ court, the petitioner was heard and the District Programme Officer passed an order, as contained in Memo No. 1025 dated 27.09.2010 (Annexure-9), which is impugned in the present writ application.

Learned counsel for the petitioner has assailed the impugned order submitting that the complaint made by respondent no. 7 was wrongly entertained and in fact respondent no. 7 had never applied for her selection as Anganbari Sevika of the Said Centre.

On the other hand, learned senior counsel representing the respondent no. 7 submits that the then Mukhiya and Panchayat Secretary had committed several acts and omissions in the matter of selection of Anganbari



Sevika of the Anganbari Centre No. 159 against which a complaint was made by the husband of respondent no. 7 and other villagers before the Child Development Project Officer, Bakhtiyarpur and Sub-Divisional Officer, Barh.

It is further submitted that the matter was got enquired into by the Sub-Divisional Officer, Barh who had found the complaint correct and in this regard letter no. 719 dated 31.10.2007 issued under the signature of the Deputy Director, Welfare, Patna Division, Patna which is enclosed as Annexure-H to the counter affidavit filed on behalf of the respondent no. 7, has been placed before me showing that in fact there was a direction based on the report of the Enquiry Committee and according to the said direction the respondent no. 7 should have been appointed.

Learned senior counsel, therefore, submits that the impugned order does not suffer from any infirmities and the extraordinary jurisdiction of this Court need not be invoked in the facts and circumstances of the case. It is further submitted that in any case only a fresh selection process has to be adopted now because the impugned order does not talk of selection of either respondent no. 7 in place of the present petitioner.



Having heard learned counsel for the parties and upon perusal of the record, I find that the impugned order has been passed after giving opportunity of hearing to the petitioner and it is based on an enquiry made by Sub-Divisional Officer, Barh, who is a responsible Officer of the State Government, and the fact that the selection of Anganbari Sevika is not a selection against a civil post rather it is under a scheme for the welfare of the child and nursing women of a particular area and in such cases an objective approach has to be adopted by the authorities of the State Government, if the State respondents have found that earlier selection process was vitiated and fresh selection process has to be initiated, this Court does not find any error in such decision. This Court has been informed that the Centre is closed for the present.

In the circumstances stated hereinabove, I find that the writ application has no merit. It is, accordingly, dismissed.

It is expected that the State respondents shall take immediate steps for fresh selection of Anganbari Sevika so that the Centre which is meant for the benefit of the poor children and downtrodden women members of the



society of that particular area may start operating.

Needless to say that in the fresh selection process those who will be eligible for selection in terms of the guidelines of the Government shall be entitled to participate.

(Rajeev Ranjan Prasad, J.)

Rajeev/-

AFR/NAFR	NAFR
CA V DATE	NA
Uploading Date	04.01.2018
Transmission Date	NA

