

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1411 of 2013

In

Civil Writ Jurisdiction Case No.8334 of 2008

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Sanju Kumari, W/o Sri Satyendra Singh, Resident of Mohalla- New Diliyan
(Bheriya Tola), P.S- Dehri On Sone, District- Rohtas, Sasaram.

... .. Appellant/s

Versus

1. The State of Bihar
2. The Commissioner and Secretary, Department of Social Welfare, Govt. of Bihar, Patna.
3. The District Collector, Rohtas at Sasaram.
4. The District Programme Officer, Rohtas, Sasaram.
5. The Child Development Project Officer, Dehri Sadar, P.S- Dehri on Sone, District- Rohtas.
6. The Ward Councillor, Ward No. 21, Dehri, Dalmianagar Municipality, P.S- Dehri on Sone, District- Rohtas.
7. Uma Devi @ Uma Kumari W/O Sri Binay Singh, Resident of Mohalla- New Diliyan (Bheriya Tola), P.S- Dehri On Sone, District- Rohtas.

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr. Rajeev Kumar Sinha, Advocate
Mr. Sushant Kumar, Advocate
For the Respondent/s : Mr. Hitesh Suman, A.C. to S.C. 13

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)



Date : 08-03-2018

Seeking exception to an order dated 19.09.2013 passed by the Writ Court in C.W.J.C. No. 8334 of 2008 this appeal has been filed under Clause 10 of the Letters Patent.

In the matter of appointment of Anganwari Sevika of Mohalla- New Diliyan (Bheriya Tola), Police Station Dehri-on-Sone, District- Rohtas Respondent No. 7 in the present appeal, namely, Smt. Uma Devi @ Uma Kumari was a candidate and when her appointment to the post was cancelled by orders of the District Collector she filed the writ petition in question. The writ petition has been allowed by the Writ Court and the appellant Smt. Sanju Kumari whose appointment has been cancelled by the Writ Court has filed this appeal.

It is the case of the appellant before us that she had filed an application for participating in the process of selection. Her application was submitted to one Pushpa Kumari who was Supervisor in the office of C.D.P.O.. She had received the application but she did not place the application before the Selection Committee, namely, the Aam Sabha when the Aam Sabha met on 25.06.2007 and as she was more meritorious, rejection of her application without placing it before the Aam Sabha is illegal.



It was the case of the respondent that when a complaint was made by her, the Collector directed the District Programme Officer to cause an inquiry and in the inquiry the District Programme Officer had found that the appellant had submitted the application, the same was accepted vide Receipt No. 1 dated 01.06.2007, it was received by the lady Supervisor Pushpa Kumari in the office of C.D.P.O. but she forgot to put it up along with the records and, therefore, the application of the appellant was not considered by the Aam Sabha on 25.06.2007.

After recording and taking note of all these factors the learned Writ Court found that to examine the question as to whether the present appellant did submit an application as alleged vide Receipt No. 1 on 01.06.2007 and her application was not placed before the Aam Sabha, the learned Court summoned the entire original records of selection and after going through the entire records it recorded a finding that the contention of the present appellant that she had submitted the application on 01.06.2007 is not correct and after scrutiny of the record the following detailed findings has been recorded by the learned Writ Court which for the sake of convenience we are reproducing hereinbelow:-

“On perusal of the original records, it is apparent that all parties deliberately tried to



manoeuvre things wrongly in favour of respondent no. 7. First, respondent no. 7 stated that she had filed application for the post of Anganwari Sevika and her receipt no. 1 was dated 01.06.2007. In her receipt annexed with her counter affidavit the post of Anganwari Sevika was tick marked that mean that her application was for Anganwari Sevika. When the original records are produced, it is apparent that it was one Kusum Devi whose application was serial having been received as no. 1 dated 01.06.2007 and not respondent no. 7. When we come to the receipt, a photocopy whereof is available in the original records, though the receipt of respondent no. 7 is shown to be serial no. 1, there is no tick mark thereon showing for which post application was. This clearly contrary to the counter affidavit of respondent no. 7. The reason is obvious. Immediately thereafter the application of respondent no. 7, Sanju Kumari, wife of Satyendra Singh is there. The application clearly shows that the post of Anganwari Sevika was cut out leaving Sevika then by hand also it is written post applied for Sahayika and not as professed. This clearly shows that respondent no. 7 had in fact applied for the post of Sahayika and her receipt number for Sahayika was 1. She had never applied for Sevika. All the story built up by the lady Supervisor, Pushpa Kumari was clearly cock and bull story built up to wrongfully held respondent no. 7 to secure a post. It is obvious that once selection was



made and respondent no. 7 found that she was more meritorious she got things manoeuvred in her favour and the authorities played around her. At this stage, I may also notice a very significant fact that if in fact respondent no. 7 had applied for Anganwari Sevika post then her husband himself was present in the very Aam Sabha meeting where petitioner was selected and where respondent no. 7 was not even empanelled he has sign the proceedings. He never objected which clearly shows that the story set up by respondent no. 7 is false to the Court with officials playing along with her.

I, therefore, have no hesitation in finding that the writ petitioner was correctly and bona fide selected but her selection and appointment has wrongly been cancelled by the C.D.P.O. by the impugned orders, as contained in Annexures-13 & 13/A dated 31.01.2008. Further, appointment of respondent no. 7 is thus clearly mala fide. Thus, Annexures- 13 & 13/A is quashed. Consequently, respondent no. 7 has to be removed to make place for the petitioner. It would be the responsibility of the Collector of the district that the petitioner immediately reinstated as Anganwari Sevika after removing respondent no. 7. It would necessarily follow that the Collector of the district would take immediate steps not only to take serious administrative action against the lady Supervisor and other officials concerned, which may culminate



in their prosecution as well. The records as produced by the learned counsel for the State are returned.

With these observations and directions, this writ petition is disposed of.”

The finding recorded by the learned Writ Court to hold that the contention of the appellant herein that she had submitted the application on 01.06.2007 is an after thought and an excuse made for challenging the appointment of Respondent No. 7 is primarily based on the fact that in the Aam Sabha that was held on 25.06.2007 and when the selection was decided by the Aam Sabha appellant's husband was present. He did not raise any objection and it was only after the Aam Sabha passed the resolution and when Respondent Uma Devi was appointed and she started working that the complaint was raised by the present appellant with regard to submission of the application to Pushpa Kumari and its not being placed on record.

The learned Writ Court, as reproduced hereinabove, has disbelieved the story put forth by the appellant on various grounds which we do not want to repeat and once it is a reasonable finding recorded by the learned Writ Court exercising its jurisdiction under Article 226 of the Constitution that also after going through the original records until and unless



there are material to show that the findings recorded by the learned Writ Court is perverse, contrary to law, does not meet the Wednesbury's theory of reasonableness, we need not interfere into the matter. We are convinced that the learned Writ Court after going through the original records has held that the appellant's husband was present in the meeting of the Aam Sabha when the selection process was conducted, application of the appellant was not available before the Aam Sabha and thereafter Respondent No. 7 Uma Devi was appointed and the conduct of appellant's husband in not challenging the same has been taken note of by the Writ Court to hold that the contention of the appellant is an afterthought. Before us a story has been developed now to say that the appellant's husband was not present in the Aam Sabha, the minutes of the Aam Sabha's meeting held on 25.06.2007 is not proper and, therefore, the finding recorded by the learned Writ Court was not correct. If that be so, the appellant should have challenged the proceedings held in the Aam Sabha on 25.06.2007 categorically stating that the findings recorded are not correct, it is a fabricated and false minute recorded and should have challenged the same. Having not done so we will not permit the appellant to do so now at this stage when the proceedings of the Aam Sabha has been taken



note of by the learned Writ Court and the findings recorded.

Accordingly, finding no case for interference into
the matter, we dismiss this appeal.

(Rajendra Menon, CJ)

(Rajeev Ranjan Prasad, J)

P.K.P./-

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