

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.987 of 2011

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Smt. Meena Devi Sri Arun Kumar Yadav Bhelahi, Ward No. 19, Nagar Parishad, Supaul, P.S. Supaul, Distt. Supaul.

.... Petitioner

Versus

1. The State of Bihar through the Secretary, Social Welfare Department, Govt. of Bihar, Patna
2. The Commissioner, Koshi Division, Saharsa, Bihar
3. The District Magistrate, Supaul, Bihar
4. Smt. Gayatri Devi W/O Sri Asharfi Yadav Bhaelahi Ward No. 19, Nagar Parishad, Supaul, P.S. Supaul, Distt. Supaul.

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Arbind Kumar Jha, Advocate
For the State : Mr. Shiv Kumar, AC to G.A.-3
For the Respondent/s : Mr. Diwakar Prasad Singh, Advocate

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL JUDGMENT

Date: 02-01-2018

Heard learned counsel for the petitioner, learned counsel representing the State as well as learned counsel for the respondent no. 4.

2. Petitioner is aggrieved by order dated 15.11.2010 passed in Service Appeal Case No. 36/2010 by the learned Commissioner, Koshi Pramandal, Saharsa (Annexure-10 to the writ application), by which he has set aside the order dated 11.05.2010 passed by the District Officer, Supaul and allowed the appeal preferred by Smt. Gayatri Devi (Respondent No. 4).

Brief facts and submissions of the petitioner

3. Learned counsel for the petitioner submits that



the dispute, in the present case, is with regard to the residential status of respondent no. 4, as according to the petitioner, respondent no. 4 is daughter-in-law of Telwa Panchayat and had applied for her selection as Anganbari Sahayika in the said Panchayat earlier, therefore, her selection for Anganbari Centre No. 286 in Ward No. 19 in Supaul Nagar Parishad as Anganbari Sevika cannot be allowed to sustain, even though she has been found to be a resident of Ward No. 19 having her permanent house, which existed since 1978 itself.

4. Expanding the argument, learned counsel for the petitioner further submits that respondent no. 4 cannot be said to be a daughter-in-law of Ward No. 19, and, therefore, she was not even entitled to apply for her selection as Anganbari Sevika in the said Ward where Anganbari Centre No. 48 is operating.

5. Learned counsel has drawn attention of this Court towards Annexure-4 to the writ application, which is a letter No. 217 dated 31.08.2007 written by the then Child Development Project Officer, Supaul (hereinafter referred to as "CDPO") to the District Officer, Supaul, in which he has come out with a finding that respondent no. 4 is the daughter-in-law of Telwa Panchayat and daughter of Ward No. 19. Attention of this Court has also been drawn towards



Annexure-5 which is a letter of the then District Officer, Supaul approving the proposal of the CDPO, Supaul. Annexure-6 is another document vide memo No. 437-2 dated 09.02.2008 written by the District Officer, Supaul to the CDPO, Supaul directing him to initiate selection process of Anganbari Sevika in view of the approval, as contained in memo no. 2570-2 dated 15.10.2007,

6. Learned counsel points out that pursuant to Annexure-6 the same finding was again affirmed by the Additional Commissioner, Supaul in further enquiry, and thereupon the District Officer, Supaul vide his letter No. 41-2 dated 30.07.2008 (Annexure-8 to the writ application) directed the CDPO, Supaul to ensure further action in accordance with the rules.

7. Learned counsel submits that even though the present petitioner was required to be appointed being placed next in the panel, once again in the Aam Sabha, the name of respondent no. 4 was recommended for selection as Anganbari Sevika, and being aggrieved by the same, this petitioner once again filed a complaint dated 16.11.2009 before the District Officer, Supaul. The District Officer, Supaul vide his letter, as contained in memo no. 442-2/Programme, Supaul dated 11.05.2010 (Annexure-9 to the writ application), declared selection of respondent no. 4 as



illegal and consequential information were sent to all concerned. This order dated 11.05.2010 passed by District Officer, Supaul, as contained in Annexure-9 to the writ application, came to be challenged vide Service Appeal No. 36/2010 in the Court of learned Commissioner, Koshi Pramandal, Saharsa, who has reversed the order of the District Officer, Supaul and allowed the appeal of respondent no. 4 holding that the District Officer, Supaul could not appreciate that there were several documentary evidences such as the revenue records, land documents, residential proofs such as voter identity card and presence of the name of respondent no. 4 and her husband in the voter list of Nagar Parishad, Supaul, to show that respondent no. 4 was a permanent resident of Ward No. 19. The Commissioner also found that her father-in-law had purchased the land in the year 1978 itself and had constructed the house, which are not in dispute. According to the Commissioner, these documents were in tune with the requirements mentioned in the guidelines governing the terms of selection of Anganbari Sevika, but these aspects were ignored by the District Officer, Supaul, and, therefore, the said order was suffering from infirmities.

8. While assailing the order passed by the Commissioner, Supaul, learned counsel for the petitioner submits that even though the facts emerging from the records



would show that the father-in-law of respondent no. 4 had purchased the land and constructed his house in Nagar Parishad, Supaul, Ward No. 19, in the year 1978, which is much before the marriage of the respondent no. 4 took place, the fact remains that she would be known as a daughter-in-law of Telwa Panchayat, and by no stretch of imagination she can be taken as daughter-in-law of Ward No. 19. According to learned counsel, the Commissioner while passing the impugned order, as contained in Annexure-10 to the writ application, could not appreciate the scheme of selection of the Anganbari Sevika and has committed an error in reversing the order passed by the District Officer, Supaul.

Submission of State and Respondent No.4

9. On the other hand, learned counsel representing the State as well as respondent no. 4 submit that on a bare perusal of Annexure-H to the counter affidavit filed on behalf of the respondent no. 4, it would appear that the District Officer, Supaul while passing Annexure-9 to the writ application could not consider the inquiry report submitted by the District Welfare Officer, Supaul. The District Welfare Officer, Supaul has categorically recorded that the father-in-law of respondent no. 4 had purchased the land in Ward No. 19 and had constructed a residential house thereon. It has also come in the report that the husband of the respondent no. 4



was permanently residing for about 20-25 years in Ward No. 19, he had got deleted his name from the voter list of Telwa Panchayat and in proof of this fact a photocopy of the receipt was duly submitted before the District Welfare Officer, Supaul. In the enquiry, it has come that in Telwa Panchayat her family has got some agricultural land but the fact remains that the respondent no. 4 is permanently residing in Ward No. 19 in the house constructed by her father-in-law.

10. It is further pointed out from Annexure-H that the other allegations against respondent no. 4 that she had got some connections with the 'Ward Parshad' has not been found correct. It is the submission of learned counsel representing respondent no. 4 that whether the respondent no. 4 can be taken as a daughter-in-law of a particular place would always depend upon the fact situation of that particular case. Here, in the present case, it is not in dispute that father-in-law of respondent no. 4 had a residential house in Ward No. 19 and the said house was existing at least 14 years before the marriage was solemnized between respondent no. 4 and her husband.

11. The fact that her husband's name is in the voter list of Ward No. 19 under Supaul Nagar Parishad and he had got his name deleted from voter list of Telwa Panchayat is a strong circumstance suggesting that the family of the



father-in-law of respondent no. 4 had finally settled down in Ward No. 19 since her marriage. The respondent no. 4 also came to be a permanent resident in her matrimonial home situated at Ward No. 19. The several documents which are placed on the record in form of sale deed of the land, the revenue rent receipt of the house and the voter identity card etc. of the respondent no. 4 and her husband are the clinching documents to show that once respondent no. 4 got married in the year 1992 she became a member of her husband's family and in her status as daughter-in-law she was permanently residing at Ward No. 19.

12. Referring the guidelines governing the selection of Anganwari Sevika, learned counsel for the respondent no. 4 submits that essence of the condition stipulated under clause-3 of the guidelines is that the Anganbari Sevika should be a permanent resident of the Tola/village/Mohalla where the Anganbari Centre is situated. Further condition that the Anganbari Sevika should be a daughter-in-law of the said Tola/village/Mohalla and not an unmarried daughter is only in consonance and in support of the condition saying that the Anganbari Sevika should be a permanent resident of the Tola/village/Mohalla.

13. According to the learned counsel, in the present case, respondent no. 4, after her marriage in the year



1992, was residing in Ward No. 19 as a daughter-in-law and is also a permanent resident of the said Ward which is not in dispute, thus, the Commissioner has rightly taken a view, as contained in Annexure-10 to the writ application.

Consideration

14. Having heard learned counsel for the parties and upon perusal of the records, this Court is of the considered opinion that this case has to be dealt in its own facts and circumstances. It is not in dispute that respondent no. 4 after her marriage was living as daughter-in-law in the matrimonial home in Ward No. 19 under Supaul Nagar Parishad which was already in existence since 1978 as her father-in-law had constructed a house after purchase a land in the year 1978 itself. The various documentary evidences placed on the record such as voter identity card, rent receipts etc. and particularly the proof of fact that her husband had got his name deleted from Telwa Panchayat. Voter list and his name is appearing in the voter list of Ward No. 19 as also the name of the present respondent no. 4 after her marriage came to be entered as his wife in the voter list of Ward No. 19 are clinching documents to take a view that the respondent no. 4 is daughter-in-law as well as permanent resident of Ward No. 19 in Nagar Parishad, Supaul. The submission of learned counsel for the petitioner that she had also applied for



Anganbari Sahayika in Telwa Panchayat where she had declared herself daughter-in-law is not of relevance in the facts and circumstances of the present case.

15. The essential conditions for selection as Anganwari Sevika at Ward No. 19 of the Nagar Parishad, Supaul were duly fulfilled by respondent no. 4 and in that condition if she has been found fit for selection on the face of Annexure-‘H’ referred by learned counsel for the State as well as respondent no. 4, this Court finds no error with the impugned order dated 15.11.2010 passed by the Commissioner, Koshi Pramandal, Saharsa in Service Appeal No. 36/2010.

16. This writ application is devoid of merit. It is dismissed, accordingly.

(Rajeev Ranjan Prasad, J.)

Rajeev/-

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

