

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Review No.257 of 2014

IN

Civil Writ Jurisdiction Case No. 11110 of 2008

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Kusum Kumari, wife of Digvijay Sharma, resident of village- Pitamberpur, P.S.-
Ghoshi, District- Jehanabad

.... Petitioner/s

Versus

1. The State of Bihar
 2. The Principal Secretary, Department of Social Welfare, Government of Bihar, Patna
 3. The Director, Welfare Government of Bihar, Patna
 4. The District Magistrate, Jehanabad
 5. The District Welfare Officer, Jehanabad
 6. The Child Development Project Officer, Modanganj, District- Jehanabad
 7. The Mukhiya Gram Panchayat Raj Naima Distt- Jehanabad Respondent/s
- =====

Appearance :

For the Petitioner/s : Mr. Ramji Kumar

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH

C.A.V. JUDGMENT

Date: 18-07-2018

1. The present petition has been filed for reviewing the order *dated 12.11.2013* passed in *CWJC no. 11110 of 2008*.

2. The learned counsel for the petitioner has submitted that the said order dated 12.11.2013 was assailed by the petitioner before the learned Division Bench and the learned Division Bench has granted liberty to the petitioner to seek review of the order dated 12.11.2013 on the ground that though the learned Single Judge by the said order dated 12.11.2013 had directed the respondents to appoint the petitioner, in case no fresh selection in respect of the said Centre had taken place but no positive direction was passed since the petitioner could not bring it to the notice of the learned Single Judge that an advertisement had been published for appointment to the post



of *Anganwari Sevika* in Pitambarpur Centre, wherein it had been specifically mentioned that the selection, which would be made pursuant to the said advertisement shall be subject to the order of the High Court. The learned counsel further submits that since the learned Single Judge had already directed to appoint the petitioner, provided no fresh selection process had taken place and more so since the advertisement issued for the purposes of fresh selection contained a rider that the selection would be subject to the order of the High Court, it would be in the interest of justice that this Hon'ble Court issues directions for appointment of the petitioner.

3. The learned counsel for the State has submitted that first of all, the said advertisement was brought on record in the appeal filed by the petitioner bearing ***L.P.A. no. 486 of 2014*** and was never a part of the writ petition. Nonetheless, it is submitted that even if the said condition mentioned in the said advertisement to the effect that the selection process would be subject to the order of the High Court is taken into account, then also the same is of no benefit to the petitioner herein, inasmuch as fresh selection has already been held and one Smt. Punam Kumari has been selected for the Centre in question on 20.09.2013 i.e. the date after which the order dated 12.11.2013 was passed by this Court. It is further submitted that the said Smt. Punam Kumari has already completed her training and is working since 26.11.2013. Moreover, the petitioner was overage on the date of fresh



selection.

4. I have heard the learned counsel for the parties and I find that the learned Single Judge by the order under review ***dated 12.11.2013*** had directed for appointment of the petitioner, in case no fresh selection had taken place and the advertisement which was issued prior to the passing of the aforesaid order dated 12.11.2013, though contained the condition that the selection would be subject to the order of the High Court but since the selection had already taken place by appointment of one Smt. Punam Kumari on 20.09.2013, the said condition mentioned in the advertisement had been rendered otiose especially since the order of this Court dated 12.11.2013 specifically mentioned that only in case of no fresh selection having taken place, the petitioner would be appointed but since one Smt. Punam Kumari had already been appointed on 20.09.2013, I do not find any reason or ground to interfere with or review the order ***dated 12.11.2013*** passed by this Court, even upon considering the said advertisement containing a condition that the fresh selection would be subject to the order of the High Court.

5. The learned counsel for the State has also brought to the notice of the Court that the petitioner herein was serving as convener of National Programme for Education of Girls at Elementary Level and receiving stipend for it at the time of holding of the *Aam Sabha* on 25.09.2001, hence she could not be considered for appointment as



per the policy of the Government.

6. In any view of the matter, the present review petition is also fit to be dismissed on the ground of non-joinder of parties, inasmuch as though the petitioner is having knowledge that one Smt. Punam Kumari has already been appointed and is working on the post of *Anganwari Sevika* at the place in question, the petitioner has not bothered to either take steps to implead the said Smt. Punam Kumari as party-respondent to the review petition or even controvert the said fact of selection/ appointment of Smt. Punam Kumari by filing a rejoinder to the counter affidavit filed on behalf of the Child Development Project Officer, Modanganj, District-Jehanabad.

7. For the reasons mentioned hereinabove, there is neither any error in the order ***dated 12.11.2013*** passed in ***CWJC no. 11110 of 2008*** nor any ground has been made out so as to warrant review of the said order dated 12.11.2013, hence the present review petition is dismissed.

(Mohit Kumar Shah, J)

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AFR/NAFR	NAFR
CAV DATE	13.07.2018
Uploading Date	18.07.2018
Transmission Date	NA

