

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.811 of 2015

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Kumari Sulekha Wife of Arun Kumar Yadav, Resident of village- Bishanpur, P.S-
Rosera, Block- Shivajee Nagar, Dist- Samastipur

.... Petitioner

Versus

1. The State of Bihar through the Divisional Commissioner, Darbhanga
2. The Divisional Commissioner, Darbhanga
3. The Divisional Deputy Director, Welfare, Darbhanga
4. The District Magistrate, Samastipur
5. The District Program Officer, Samastipur
6. Child Development Project Officer, Shivajee Nagar, Samastipur
7. Ranjan Kumari Wife of Shri Lalit Kumar Jha, Resident of village- Jhakar
Dharmpur, P.S- Rosera, Block- Shivajee Nagar, Dist- Samastipur

.... Respondents

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Appearance :

For the Petitioner : Mr. Dhananjai Kumar Singh
For the Respondents : Mr. Madhukar Mishra, AC to SC 6
For respondent no.7 : Mr. Abhay Shankar Sinha, Advocate
Mr. Sanjay Kumar Jha, Advocate

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CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD

ORAL JUDGMENT

Date: 18-06-2018

Heard learned counsel for the petitioner, the State and
private respondent no.7.

2. It is submitted on behalf of the petitioner that the order dated 19.2.2015 (Annexure 9 to the IA), passed by the Divisional Deputy Director, Welfare, Darbhanga (respondent no.3) closing the proceedings arising out of Anganbwari Case No. 188 of 2013 in light of the order dated 23.9.2014 (Annexure 7), passed by the Divisional Commissioner, Darbhanga (respondent no.2) in Appeal No. 22/2013/14, is bad in law inasmuch as it is respondent no.3 and not respondent no.2 who is competent to hear the appeal after amending guidelines came into effect since 17.5.2013.



3. Learned counsel for the private respondent no.7 has appeared. He placed before this Court letter dated 11.5.2010 of the Social Welfare Department. He has relied upon paragraph 5 of the said letter which is being reproduced herein:-

“ 5. आंगनवाड़ी सेविकाओं/सहायिकाओं के चयन तथा चयन के क्रम में की गयी अनियमितताओं के संबंध में केवल जिलाधिकारी ही वर्ष 2006 की मार्गदर्शिका के अनुसार चयनमुक्त करने के लिये अधिकृत होंगे। ऐसे मामलों में अपील प्रमंडलीय आयुक्त के यहाँ की जायेगी और उनका निर्णय इस मामले में अन्तिम होगा।”

4. Relying upon the said paragraph learned counsel for respondent no.7 submits that since selection is of year 2006, and the original impugned order was issued by the District Magistrate, Samastipur it was the Divisional Commissioner, Darbhanga who was competent authority to decide the appeal, wherein the dispute regarding selection of Anganwari Sevika for Centre no. 36 (Baghi Tola), Gram Panchayat Jakhar Dharampur, Shivajee Nagar, Samastipur was being agitated.

5. Learned counsel for the State while relying upon counter affidavit would also submit that the Divisional Commissioner was competent party to decide the appeal.

6. This Court would only notice that even if the Divisional Commissioner was competent authority to consider and decide the appeal, the same could have been done only after affording opportunity of hearing to the petitioner before recording adverse observation in respect of her selection in order dated 23.9.2014,



passed in the appeal filed by respondent no.7. Admittedly, the same has not been done and so order dated 23.9.2014 is not sustainable. The petitioner had earlier been selected as Anganwari Sevika in respect of the aforesaid centre and no decision affecting her selection could have been taken without hearing her.

7. Admitted position is that now after coming into force of 2015 Guidelines, the Divisional Commissioner is to decide the appeal. In view of this admitted position, the interest of justice would be served by directing the Divisional Commissioner, Darbhanga (respondent no.2) to take a fresh a decision upon the appeal filed by respondent no.7 after giving due opportunity of hearing to the parties. The petitioner as well as respondent no.7 would be obliged to present themselves for facilitating the disposal of appeal on 20.7.2018 before respondent no.2. Rights of the parties would abide by final decision of respondent no.2 in the appeal.

8. The writ petition is allowed to the extent indicated above.

(Madhuresh Prasad, J)

Shashi.

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	22.6.2018
Transmission Date	NA

