

**IN THE HIGH COURT OF JUDICATURE AT PATNA**

**Civil Writ Jurisdiction Case No.7323 of 2014**

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Savita Sinha w/o Sanjay Kumar resident of village Raniganj Ward No. 7, Police Station Chakiya, District East Champaran .... **Petitioner**

**Versus**

1. The State of Bihar through Secretary Department of Social Welfare, Govt. of Bihar, Patna.
  2. Director, I.C.D.S. Govt. of Bihar, Patna.
  3. The Commissioner, Tirhut Division, Muzaffarpur.
  4. The District Magistrate Motihari, East Champaran.
  5. The District Programme Officer, Motihari, East Champaran.
  6. The Child Development Project Officer, Chakiya, East Champaran.
  7. Bebi Kumari W/o Late Kislay Phathak, Resident of Ward No. 6, P.S. Chakiya, Dist.- East Champaran .... **Respondents**
- =====

**Appearance :**

For the Petitioner : Mr. Manoj Kumar Singh, Advocate  
For the Respondents : Mr. MANOJ KR. AMBASTHA, SC 26 and  
Mr. Subodh Kumar, AC to SC 26

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**CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD**

**ORAL JUDGMENT**

**Date: 10-07-2018**

Heard learned counsel for the petitioner and learned counsel for the State.

The petitioner has challenged order dated 11.11.2013, cancelling her selection as Anganbari Sevika in Chakiya Pariyojana Centre No. 162 in the District of East Champaran on 18.5.2007. Said selection, as per the petitioner, was made under 2006 Guidelines. Selection had been cancelled relying upon Clause 3(ड.) of 2006 Guidelines, wherein it has been contemplated that the relatives of Government and semi Government servants are not suitable to be selected /appointed for the post of Sevika.



Learned counsel for the petitioner has relied upon the judgment dated 21.5.2010, passed by a bench of this Court in C.W.J.C.No. 3981 of 2008 (Anita Kumari Vs. The State of Bihar and others). He also relies on the order dated 15.12.2011, passed by this Court in LPA No. 1439 of 2010 (The State of Bihar and others Vs. Sunita Kumari and another). Learned counsel for the petitioner has also relied upon the judgment in case of **Vimal Kumari Vs The State of Bihar and others**, reported in **2017(1) PLJR 11**. This Court would observe that the facts of the reported judgment is essentially different than the case of the petitioner inasmuch as in that case neither husband nor father-in-law of the petitioner (married lady) was in Government service and the petitioner was sought to be disqualified since her father was admittedly a Government teacher at the time when she applied for the post of Anganwari Sevika.

Another distinguishing feature is that the judgment dated 21.5.2010 relied upon by the petitioner is in relation to 2007 Guidelines. Admittedly, the petitioner was appointed pursuant to 2006 Guidelines.

Learned counsel for the State, on the other hand, has placed on record the judgment of this Court dated 6.5.2010, passed in C.W.J.C.No. 12911 of 2007 (Sunita Kumari Vs. The



State of Bihar and others). The same was not interfered with in LPA No. 1439 of 2010 which has been relied upon by learned counsel for the petitioner.

Relevant extract of the order dated 15.12.2011 is reproduced herein below:-

*“Learned counsel for the appellants sought for a clarification that the order of the writ court shall not affect the decision taken prior to the judgment and order under appeal. That issue has already been clarified by the writ court in paragraph-21 of the judgment under appeal. In fact, in paragraph-20 the writ court has directed the Secretary, Welfare Department to consider the matter afresh if the ban is imposed or a qualification is prescribed which is reasonable and within the ambit of Article 14 of the Constitution of India.”*

The issue therefore is settled that though the ban on selection of specific relative of Government servant was found to be unconstitutional but the effect of the judgment dated 06.05.2010 in C.W.J.C.No. 12911 of 2007 was prospective and in respect of prospective transaction of appointment, this Court has specifically observed in paragraph 21 that “this order is restricted to the petitioner and will be prospective and no party in concluded transactions of appointment to said posts can take the benefit of the order”. It is explicit direction of the Division bench in order dated 15.12.2011, passed in LPA No. 1439 of 2010 that



“hence, we are not required to make any further clarification”.

The petitioner was admittedly selected prior to declaration made in C.W.J.C.No. 12911 of 2007 as affirmed in LPA No. 1439 of 2010 and petitioner cannot claim any benefit arising out of the said proceedings.

The writ petition is devoid of merit and is thus dismissed.

**(Madhuresh Prasad, J)**

Shashi.

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