

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16478 of 2013

Bindu Kumari, D/o Shiv Nandan Sah, Wife of Birendra Kumar Sah, resident of Mohalla Aryan Shopping, Gerabadi Road, Mirchaibari, District- Katihar.

... .. Petitioner/s

Versus

1. The State Of Bihar through the Principal Secretary, Social Welfare Department, Government of Bihar, Patna.
2. The Personnel Secretary, Social Welfare Department, Government of Bihar, Patna.
3. The Divisional Commissioner, Purnia Division, Purnea.
4. ?The Director, Integrated Child Development Service, Directorate, Bihar, Patna.
5. The Selection Committee Lady Supervisor Selection Committee, Katihar through its Chairman, The Collector, Katihar.
6. The Collector, Katihar.
7. Sonam Kashyap, D/o Sri Sushil Chandra Mandal resident of village Chakla, Maula Nagar, Sameli, PS. Samili, District- Katihar.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Rajan, Advocate
For the State	:	Mr. Vishwa Ranjan Choudhary, Advocate
	:	Mr. Krishana Kant Tiwari, AC to SC 27
For the Respondent No. 7	:	Mrs. Reena Sinha, Advocate

CORAM: HONOURABLE MR. JUSTICE S. KUMAR
ORAL JUDGMENT

Date : 02-04-2018

This writ petition under Article 226 of the

Constitution of India has been filed for quashing the order dated 14.05.2012 passed by the District Collector, Katihar, by which the candidature of petitioner for appointment on the post of Lady Supervisor in the District of Katihar has been cancelled as creamy layer certificate was not enclosed with the caste certificate as well as order dated 21.11.2012 passed by Commissioner, Purnea in Miscellaneous Appeal No. 51 of 2012 dismissing the appeal of petitioner.



2. Briefly stated, the facts of the case is that an advertisement was published on 28.12.2011 inviting application from female candidates residing in Katihar District for appointment on the post of Lady Supervisor on contract basis in the District of Katihar. Alongwith application form, candidates claiming reservation were required to submit caste certificate of their category alongwith creamy layer certificate. Petitioner submitted her application through registered post on 3.01.2012.

3. On the basis of application submitted by candidates, a merit list was prepared in which petitioner was shown at serial No. 139 and in the remarks column of the merit list the petitioner was called for counselling in the 3rd list to be held on 14.05.2012 and her name appeared at serial No. 1. By publishing an advertisement in the newspaper the candidates in the 3rd list were required to appear for counselling on 14.05.2012 alongwith a certificate that they do not belong to creamy layer. The District Collector-Cum-Chairman, Lady Supervisor Selection Committee, katihar by his order dated 14.05.2012 rejected the candidature of petitioner on the ground that creamy layer certificate was not submitted by the petitioner.

4. Petitioner filed a Miscellaneous Appeal No. 51 of 2012 before the Divisional Commissioner, Purnea challenging



the order dated 14.05.2012 passed by the District Collector-Cum-Chairman Lady Supervisor Selection Committee, Katihar. The Divisional Commissioner, Purnea by order dated 21.11.2012 dismissed the Miscellaneous Appeal of petitioner on the ground that there was requirement of filing of certificate alongwith caste certificate that petitioner does not belong to creamy layer and as such the order passed by the Collector does not require any interference.

5. It has been submitted on behalf of learned counsel for the petitioner that as per guidelines issued by the I.C.D.S. with respect to selection of candidate of Anganbari Supervisor it has been stated therein that if any certificate at the time of submission of original application is not filed, on such ground the candidature of applicant cannot be rejected and she shall be given an opportunity to submit the required wanting certificate within a specified period. However, in the advertisement issued by the District Collector, Katihar as contained in Annexure-1 there was no such relaxation given in the advertisement and it was stated in the advertisement itself that if any document is required, same should be enclosed alongwith application. Clause (2) of said advertisement specifically stated that candidates belonging to backward class,



extremely backward class should submit caste certificate issued by District Magistrate alongwith a certificate that she does not belong to creamy layer.

6. In the advertisement itself it was stated that application send by registered post self attested copies of certificate is to be accompanied alongwith application and if any certificate is lacking same will be published on the 2nd day of receiving of application on the notice board and candidates shall remove the defects in application. Learned counsel for the petitioner submitted that as per guidelines issued by department the application form would not have been rejected on the ground that creamy layer certificate was not filed by applicant and opportunity should be granted to her to submit said certificate subsequently. The guidelines do not confer any right in the candidate. Candidates are bound by the terms of advertisement and they have to submit their application in terms of advertisement and candidature of petitioner was rejected on the ground that she did not produce creamy layer certificate at the date and time of counselling on 14.05.2012. The appointment was on contractual basis for 12 months only.

7. In the Counter affidavit respondents have submitted that in the advertisement itself it was made clear that



at the time of counselling candidate has to produce all the required certificate in original and not participating in counselling on the fixed date or non submission of original certificate as required, the candidature will be cancelled. On 14.05.2012 petitioner appeared in counselling but she did not produce the creamy layer certificate issued by District Magistrate and as such her candidature was cancelled in terms of advertisement. There is no merit in this application and the same is dismissed, however without any cost.

(S. Kumar, J)

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CAV DATE	
Uploading Date	
Transmission Date	

