

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3121 of 2017

Uma Bharti, Wife of Sri Binod Kumar Sahu, resident of village & P.O. Taralahi, Ward No. 7, P.S. Bahadurpur, District - Darbhanga

... .. Petitioner/s

Versus

1. The State of Bihar, through the District Magistrate, Darbhanga
2. The District Programme officer, Darbhanga
3. The Child Development Project officer, Bahadurpur, P.S. Bahadurpur, District - Darbhanga
4. Mukhiya of Gram Panchayat Taralahi, P.S. Bahadurpur, District - Darbhanga
5. Panchayat Secretary of Gram Panchayat Taralahi, P.S. Bahadurpur, District - Darbhanga
6. Meena Kumari @ Meena Devi, Wife of Binod Kumar, resident of village & P.O. Taralahi, P.S. Bahadurpur, District - Darbhanga

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Dhananjay Kumar, Adv. Mr. Sunil Prasad, Adv.
For the Resp. No.6	:	Mr. Saroj Kumar, Adv.
For the Respondent/s	:	Mr. Asit Kr. Jha, AC to GP2

CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY
ORAL JUDGMENT

Date : 10-09-2018

Heard learned counsel for the parties.

In this case, the petitioner is challenging the order dated 6.11.2014 passed by the Collector, Darbhanga in Case No. 82 of 2011 which has been affirmed by the Commissioner in Anganbari Appeal No. 07 of 2014 vide order dated 11.1.2017, thereby, the selection of the present petitioner Uma Bharti has been nullified and the direction was given by the Commissioner to undergo for fresh selection of Anganbari Sevika of Anganbari Center No. 176.

Before advertng to the merit of the case, certain essential facts are to be taken into consideration that before



bifurcation of Center No. 176, it was Center No. 124 consisting of population of 1700 to 1800 under Taralahi Gram Panchayat, situated towards east and west of Surya Pokhar. This center was spreading in such a manner that the main road passes through the Center No. 24 which is very busy road, was causing great inconvenience for the children to cross the road and to visit the center as always there was a apprehension that the children may not come in trap of accident of running vehicle. The villagers of the feeder area were very much concerned with this grave situation, filed an application to the Mukhia of the Taralahi Gram Panchayat for rearrangement of the center, as claiming that the feeder area of that Center has wrongly been configured as the children of 3 to 6 years were compelled to cross the road which was the matter of great concern to the respective parents and requested the Center should be created in such a manner that small children may not have occasion to cross the busy road, a suggestin was given for bifurcation into east Surya Pokhar and West Surya Pokhar. On the basis of that application, specific agenda was brought before the Gram Panchayat and, in the meeting of the Gram Panchayat dated 5.3.2007, unanimously decided of bifurcation of Center No.24 as East Surya Pokhar Center and West Surya Pokhar Center of Anganbari and a new Anganbari Center



No. 176 has been created consisting of certain part of the previous Center No. 24 and also inclusive of other area of ward no. 07. The petitioner was not the resident of the earlier feeder area of Center No.24. When new Center No. 176 has been created, in that event, the husband of the petitioner has also been included in that center.

The challenge is made with regard to selection made in the new Center No. 176 in which the petitioner and one Mina Devi was applicants and they are contesting the selection of each other. Mina Devi is the resident of Ward No.4, Center No.174, whereas, the petitioner is the resident of Ward No.11 which was included in the new center. It has to be noted that the application of appointment of Anganbari Sevika was accepted on 11.2.2007 and 12.2.2007 whereas the bifurcation of Center No.24 has been done on 23.5.2007 as East Surya Pokhar and West Surya Pokhar in the General Body Meeting dated 23.5.2007. Any advertisement with respect to old center no.24 cannot be a basis for selection of candidate after the creation of new center. Admittedly, it is very much clear that after the creation of the new center on 23.5.2007, no advertisement was made, that led to selection of Anganbari Sevika but, in the present case, the application has been received before creation of the Center No. 176 which is absolutely clear from the order of the Collector as well as the Commissioner. It is



also very much clear that if the order of the Collector and the Commissioner is interfered with and the appointment of the petitioner is resolved, it will lead to a situation that after the inclusion of certain area, there may be certain members of backward community, may be eligible for selection for the said post have been deprived of chance of participation and had to face absurd situation. The petitioner belongs to the Most Backward Category whereas the Center No. 176 is dominated by the Backward Category, in such a situation, the preference will be given to the member of the Backward Caste Category, in the event of non-availability of that category of candidate, in such situation, the appointment will be given to the other category/categories of the candidate.

The basic thrust has been raised by the petitioner that Mina Devi cannot compete with the petitioner on the ground that she is not the resident of the feeder area that has been created after 23.5.2007 whereas the petitioner's family comes within the feeder area of Center No. 176 but, in the present case, the question is very simple that the advertisement was not published after the creation of the feeder area and that is the reason for interference made by the Collector and which has been approved by the Commissioner



and, thus, this Court does not find any substance and merit to interfere with the order of the Collector and the Commissioner.

Let the entire process of selection be initiated by the competent person and that should be completed within a period of six months from the date of receipt/production of a copy of this order. While making selection, the authority will take into consideration, if it is possible, the experience of the petitioner.

With the aforementioned observation and direction, this writ application is disposed of.

(Shivaji Pandey, J)

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AFR/NAFR	NAFR
CAV DATE	NA
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