

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.2700 of 2016

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Smt. Indu Devi Wife of Sri Dilip Kumar Prasad Singh, Resident of Village - Darwan, P.O. - Isuapur, P.S. - Isuapur, P.S. - Isuapur, District - Saran.

.... Petitioner

Versus

1. The State of Bihar, through Commissioner - cum - Secretary, Welfare Department, Bihar, Patna.
2. The Commissioner, Saran Division, Chapra.
3. The District Magistrate, Saran at Chapra.
4. The District Programme Officer, Saran at Chapra.
5. The Child Development Project Officer, Isuapur, Saran.
6. Smt. Babita Devi, Wife of Sri Om Prakash Sah, Resident of Village - Darwan, P.O. - Isuapur, P.S. - Isuapur, District - Saran.

.... Respondents

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Appearance :

For the Petitioner	: Mr. Jagdish Prasad No.1, Advocate Mr. Maheshwar Prasad, Advocate
For the State	: Mr. Anuj Kumar, AC to SC-17
For Respondent No.6	: Mr. Arun Kumar Rai, Advocate

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

ORAL JUDGMENT

Date: 08-01-2018

Heard Mr. Jagdish Prasad No.1, learned counsel appearing for the petitioner, Mr. Anuj Kumar, learned AC to SC-12 for the State and Mr. Arun Kumar Rai, learned counsel for the private respondent.

The petitioner is aggrieved by the order dated 2.1.2016 passed by the Commissioner, Saran Division, Chapra in Anganbari Appeal No.354 of 2012 whereby on remand of the matter by this Court vide order passed in C.W.J.C. No.9200 of 2014 at Annexure-5, he has upheld his earlier order dated 7.4.2014 in absence of power of review vested in him.



Undisputed facts leading to the impugned order present in the contest is that following an advertisement issued in the year 2010 for filling up the post of Anganbari Sevika, Centre No.32, Isuapur Block in the district of Saran that the petitioner, the private respondent and some others participated. However, since the majority class determined for the area in the mapping register classified it as extremely backward category that the private respondent placed at sl.no.3 of the merit list present at Annexure-1, was appointed which aggrieved by the petitioner coming from the backward category to question the same before the District Magistrate, Saran, Chapra in Case No.4 of 2011. The District Magistrate, Saran at Chapra vide his order dated 29.10.2012 upheld the grievance raised by the petitioner to quash the appointment of the private respondent, inter alia, on the ground of error occurring in the mapping register. The concerned authorities were directed to carry out the exercise afresh for determining the majority class and make appointment accordingly.

The private respondent moved in appeal before the Commissioner, Saran Division in Anganbari Appeal No.354 of 2012 and vide his exhaustive order passed on 7.4.2014, the appeal was allowed to uphold the mapping register and consequentially the appointment of the private respondent. It was now the turn of the petitioner to come before this Court in C.W.J.C. No.9200 of 2014 and



a Co-ordinate Bench in consideration of the grievance raised vide order passed on 4.12.2015 at Annexure-5 remitted the matter for fresh opinion by the Commissioner on the dispute. Noticeably the earlier order of the Commissioner was not interfered with by the Bench. It is on remand of the matter and not finding review jurisdiction vested in him that the Commissioner has disposed of the matter vide his order passed on 2.1.2016 present at Annexure-6 thus upholding his earlier order.

I have heard learned counsel for the parties and perused the records. The facts are not in dispute rather the dispute is limited to the determination of majority class. The exercise undertaken for appointment of Anganbari Sevika initiates with determination of the majority class in the area before the vacancy is put up for selection and thus the petitioner was much aware of this determination when she participated in the exercise. Though the District Magistrate, Saran had upheld the grievance raised by the petitioner on the alleged error in the mapping register, but the Commissioner, Saran Division on examination of the record is not satisfied by the opinion expressed by the District Magistrate to upset the same and while allowing the mapping register earlier determined for the area as extremely backward class, he has approved the appointment of the private respondent coming from the majority class. In my opinion, such



exercise are best left to the authorities of Government and the Commissioner having exercised his jurisdiction to confirm the factual position that the majority class in the area is extremely Backward, this Court is not persuaded to enter into the dispute for holding any enquiry.

The writ petition is disposed of.

(Jyoti Saran, J)

N.H./-

AFR/NAFR	NAFR
Uploading Date	15-01-2018

