

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.9825 of 2010

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1. Rita Kumari @ Reeta Devi W/O Rakesh Kumar R/O Vill.- Keshopur, P.S.- Sone Nagar, Distt.- Aurangabad

.... Petitioner/s

Versus

1. The State Of Bihar
2. The Principal Secretary, Social Welfare Department, Govt. Of Bihar, Patna
3. The Director, Integrated Child Development Project,.....Welfare Department, Govt. Of Bihar, Patna
4. The Commissioner, Magadh Division, Gaya
5. The District Magistrate, Aurangabad
6. The District Programme Officer, Aurangabad
7. The Child Development Project Officer, Block- Barun, Distt.- Aurangabad
8. Smt. Kaushalya Devi W/O Ashok Kumar R/O Vill.- Rampur, P.O.- Jai Govind Nagar, P.S.- Jamhor, Distt.- Aurangabad

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Rajendra Prasad Singh, Sr. Advocate
Mr. Rajeev Kumar Singh
For the State : Mr. Wasi Ahmad Khan, AC to SCV 25
For Resspondent no.8 : Mr. Bhanu Pratap Singh

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 02-04-2018

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

In the present case, the petitioner is challenging the order dated 16.2.2010 passed by the District Magistrate, Aurangabad in Appeal Case No.32 of 2009 whereby and whereunder he has rejected the appeal and affirmed the order dated 17.12.2008 passed by the District Programme Officer, Aurangabad.

The present matter is related to the appointment of



Anganwari Sevika of Center Keshopur, Gram Panchayat Kochar.

As per the petitioner, members of scheduled caste are in majority in that area and accordingly mapping register has been prepared which is reflected from the proceeding of Aam Sabha. As it is dominated by the scheduled caste the petitioner was selected for the post of Anganwari Sevika but her appointment was challenged before the District Programme Officer in Case No.33 of 2008 and where she has taken specific stand that it is scheduled caste Bahulaya area, schedule caste population is in higher side then the members of backward caste and as such area is not backward caste Bahulaya area but the District Programme Officer did not decide this issue, merely recorded that it is backward caste Bahulaya area and declared the appointment of the petitioner illegal.

The order of the District Programme Officer was challenged before this Court vide C.W.J.C. N o.8758 of 2009 which was disposed of vide order dated 28.7.2009 giving direction to file an appeal

Accordingly appeal was filed. In the appeal the petitioner has taken a plea that she was appointed by Aam Sabha and accordingly she was sent for training from 6.7.2007 to 12.7.2007



and she was declared successful. Thereafter she was given training from 18.2.2008 to 18.3.2008, after completion, she discharged the duty of Anganwari Sevika from 6.7.2007 to 17.7.2008 and no complaint was received from any persons of the area.

In the order, the appellate authority has recorded that it is a backward Bahulaya area so the appointment of the petitioner was wrong.

Learned counsel for the petitioner submits that Appellate Authority has recorded wrong fact as well as by the District Programme Officer that area is backward Bahulaya area but in fact it is scheduled caste Bahulaya area though plea was taken before District Programme Officer as well as before Appellate Authority but they did not record any finding.

In such view of the matter, the case is remanded back to the appellate authority to examine the fact as to whether Keshopur Center is dominated by the backward or schedule caste. If it is dominated by the backward community, in such circumstances, the question of removal of respondent no.8 does not arise. But if it is found that it is scheduled caste dominated area certainly it will be treated that this Court has interfered with the order of the appellate authority and appellate authority will



decide the case in accordance with law.

During pendency of proceeding before the Collector this Court is not interfering with the appointment of respondent no.8 but it will be subjected to the order passed by the appellate authority. Whole process must be completed within a period of three months from the date of receipt/production of a copy of this order.

With the aforesaid observation and direction this writ petition is disposed of.

(Shivaji Pandey, J)

Vinay/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	11.4.2018
Transmission Date	NA

