

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No 8281 of 2014

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Geeta Kumari Wife of Sri Baldeo Yadav resident of Village- Khair, Khutti, P.O-
Jaipur, P.S- Katoria, District- Banka.

.... Petitioner/s

Versus

1. The State of Bihar through the Collector, Banka, District Banka.
2. The Divisional Commissioner, Bhagalpur, District Bhagalpur.
3. The District Magistrate, Banka, District-Banka.
4. The District Programme Officer, Banka, District- Banka.
5. The Child Development Project Officer, Katoria, District- Banka
6. The Gram Panchayat Raj Tajpur, through its Mukhiya, P.S- Katoria, District-
Banka
7. Geeta Devi W/o Sri Gopal Yadav Resident of village- Titlakho, P.O- Charkha
Pathar, within Gram Panchayat Lakrama, Block + P.S- Katoria, District- Banka.

.... Respondent/s

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Appearance :

For the Petitioner/s : M/s Subodh Kr Jha & Pranav Kr Jha, Advocates
For the State : Mr Priyadarshi Matri Sharan, Advocate
For Respondent No 7 : Mr Praveen Kumar, Advocate

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CORAM: HONOURABLE MR JUSTICE MADHURESH PRASAD

ORAL JUDGMENT

Date: 24-01-2018

Heard counsel for the petitioner, State and private
respondent No 7.

2 The instant writ petition has been filed for quashing
the order dated 24.08.2013 passed in Miscellaneous Anganbari Case
No 88 of 2011-2012 by the District Magistrate, Banka whereby
appointment of the petitioner on the post of Anganbari Sevika at
Centre No 143, Centre Kalahazari within Gram Panchayat – Jaipur
has been cancelled and the order passed by the Divisional
Commissioner, Bhagalpur on the appeal filed by the petitioner bearing



Appeal Case No 107 of 2012-2013 whereby the order of the District Magistrate has been affirmed.

3 Counsel for the petitioner, at the very outset, submits that the order of the Collector dated 24.08.2013 is without jurisdiction inasmuch as the petitioner was selected on 12.10.2011. He submits that on such date, the Anganbari Paryavechika/Sevika/Sahayika Niyukti Margdarshika, 2011 had come into force and the procedure prescribed under Clause 10.2 of the Guidelines of 2011 was required to be followed wherein the District Programme Officer was the competent authority to consider the complain regarding irregularities in appointment of Anganbari Sevika. To that extent, the reply of private respondent is that the complaint, which is Annexure B of the counter affidavit filed by the State, was filed by the private respondent on 27.10.2011. He submits that as on that date, the Anganbari Paryavechika/Sevika/Sahayika Niyukti Margdarshika, 2010 were operative and as per Clause 8.2 of the said Guidelines, it was the District Magistrate who was the competent authority to consider and decide the complaints made with respect to irregularities in appointment. Clause 8.2 of the Guidelines is quoted herein:

“8.2 चयन संबंधी अनियमितता की जाँच कायम प्राप्त होने पर जिला पदाधिकारी द्वारा जिला प्रोग्राम पदाधिकारी/अनुमंडल पदाधिकारी/अपर समाहर्ता स्तर के पदाधिकारी से इसकी जाँच करायेंगे। जाँच शपथ परिवाद पत्र प्राप्त होने की तिथि से 45 दिनों के अन्दर पूरी कर ली जायगी। जाँच



पदाधिकारी जाँच के उपरान्त जाँच समाप्त होने की तिथि से पाँच दिनों के अन्दर जिला पदाधिकारी को अपना प्रतिवेदन सौंपेंगे। जिला पदाधिकारी द्वारा परिवाद से संबंधित जाँच प्रतिवेदन प्राप्त होने की तिथि से 30 दिनों के अन्दर संबंधित पक्षों को सुनकर अपना मुखर आदे' पारित करेंगे।'

4 From perusal of the said Clause 8.2 of the Guidelines, it is quite apparent that the jurisdiction of the District Magistrate to enquire into the allegations would start from the time of receipt of the complaint which, in the instant case as per the counter affidavit, has been received by the District Magistrate on 27.10.2011. It appears that in compliance of the same, as per the notings in the left margin, the District Magistrate, on the same date, had called for two reports, one from the District Programme Officer (for brevity, *DPO*) and another from Senior Deputy Collector (for brevity, *SDC*) who, as per Clause 8.2 of the Guidelines, are the competent authorities to submit the report.

5 The objection made by the petitioner with respect to jurisdiction does not merit any consideration and does not appear to be well founded. As on 27.10.2011 when the 2010 Guidelines were still operative, the complain had been received by the District Magistrate. The 2011 Guidelines became operative about 8 days thereafter, i.e. with effect from 04.11.2011, as is stated in the 2011 Guidelines.

6 In the alternative, the petitioner's counsel has



submitted that the report of the CDPO dated 02.06.2012 submitted before the Collector after enquiry in this regard has been overlooked. He submits that the same was required to be considered as it contained findings in favour of the petitioner. In the said report, the CDPO has categorically recorded a finding that respondent No 7 was not a resident of the Poshak Kshetra that is Panchayat – Jaipur. In his report, the CDPO has stated that respondent No 7 was resident of Panchayat – Lakrama and, therefore, her candidature for selection as Anganbari Sevika had rightly been rejected.

7 The petitioner's counsel has further submitted that the order of the District Magistrate has been passed after a considerable delay. He submits that due to extraneous consideration and being obliged by respondent No 7, he has issued the order six months after it was heard to favour respondent No 7.

8 Counsel appearing for private respondent No 7 draws attention of the Court towards the order passed by the District Magistrate. He submits that from perusal of the same, it is quite evident that the same is a well reasoned and considered order. The District Magistrate has, with reference to the Electoral Rolls of the area, the proceedings in the Aam Sabha and the Mapping Register come to the conclusion that the report of the CDPO was unreliable. He has found the selection process of the petitioner being vitiated



due to serious irregularities caused by overwriting and manipulation in the said register so as to scuttle the claim of respondent No 7. He has further said that in the original Aam Sabha dated 17.02.2011, respondent No 7 was appointed but later on, a fresh proceeding of the Aam Sabha has been recorded in the register by crossing the earlier one and on these grounds, after considering the relevant material, the District Magistrate has recorded the finding that the appointment of the writ petitioner was not in accordance with law.

9 The further submission regarding the report of the DPO being overlooked also does not merit any consideration as the Collector, in the impugned order, has relied upon a detailed report submitted by the SDC who has examined the matter and has held that the report submitted by the CDPO was not reliable in view of the serious irregularities committed in favour of the petitioner.

10 The order of the Collector has been challenged by the writ petitioner before the Divisional Commissioner. The same was numbered as Appeal Case No 107 of 2012-2013. Once again, the Commissioner has recorded findings with reference to the voters' list of the village, the proceedings of the Aam Sabha and also that in the matter of awarding of marks also, some irregularities have been committed so as to ensure appointment of writ petitioner. Therefore, the appointment has rightly been cancelled. The appeal against the



order of the Collector has, therefore, been rejected.

11 In view of the aforesaid position, since the appointment of respondent No 7 has been found sustainable for the reasons indicated above, this Court finds no infirmity in the appointment of respondent No 7. The order dated 24.08.2013 passed by the District Magistrate, Banka in Miscellaneous Anganbari Case No 88 of 2011-2012 as also the order of the Divisional Commissioner, Bhagalpur Division in Appeal Case No 107 of 2012-2013 do not require any interference by this Court.

12 The writ petition is, accordingly, dismissed.

(Madhuresh Prasad, J)

M.E.H./-

AFR/NAFR	NAFR
CAV DATE	NA
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