

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.21657 of 2013

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ASHA KUMARI W/O RABINDRA PRASAD AKELA R/O VILLAGE-
JAMAL BIGHA, P.S- HASPURA, DISTRICT- AURANGABAD (BIHAR)

... .. Petitioner/s

Versus

1. The State Of Bihar
2. The District Magistrate Cum Collector, Aurangabad (Bihar)
3. The Sub- Divisional Officer, Daudnagar Aurangabad (Bihar)
4. The Block Officer, Haspura, Aurangabad (Bihar)
5. The Sarpanch, Gram Kachari Dumra, Namely Sidanath Singh R/O Village-
Dumra, Post- Dumra, P.S- Haspura, District- Aurangabad (Bihar)
6. Chanchala Kumari D/O Sidanath Singh And W/O Rakesh Kumar R/O
Village- Itwa,, P.S- Haspura, District- Aurangabad (Bihar)

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Rajendra Prasad Singh, Advocate
For the Respondent/s	:	Mr. Kinkar Kumar SC with Mr. Zaki Haider, AC to SC

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CORAM: HONOURABLE MR. JUSTICE S. KUMAR
ORAL JUDGMENT

Date : 02-04-2018

This writ petition under Article 226 of Constitution of India has been filed for a direction to the respondent authorities to make payment of arrears of salary from June 2010 till date to the petitioner with interest for the post of Nyay Sachiv (Gram Kachari Sachiv) in Gram Kachahari Dumra under Haspura Block District of Aurangabad.

2. Petitioner is daughter in law of village Jamal Bigha, post Dumra Block Haspura in the District of Aurangabad and is working as Nyay Sachiv in Gram Kachhari Dumra under Haspura Block in the District of Aurangabad. An advertisement was published in all the Blocks including Haspura Block in the



district of Aurangabad for appointment of Nyay Sachiv under the provisions of Bihar Gram Kachhari Sachiv (Niyojan Seva Sart Avam Kartabya) Neiyamabali, 2007 in the month of July, August 2007. Eligibility for the post of Nyay Sachiv is matriculation or its equivalent and petitioner was Madhyama pass with 81.42% of marks.

3. Petitioner being eligible for the post of Nyay Sachiv, she applied alongwith others and total six candidates had applied for the post including petitioner and respondent No. 6 and a merit list was prepared on marks basis and name of petitioner was approved by the Nodel Officer of Law.

4. Due to some dispute with regard to eligibility of academic qualification whether it should be matriculation or its equivalent, no appointment was made on the post of Nyay Sachiv and in such a situation C.W.J.C. No. 13905 of 2007 was filed before this Hon'ble Court. The High Court decided the issue to treat the degree of Madhyama equivalent to matriculation and make appointment on the post of Nyay Sachiv and subsequent to said decision a meeting of Gram Kachhari, Dumra was held on 06.07.2009 in which decision was taken to appoint the petitioner as Nyay Sachiv and a consent letter was issued to her on 13.07.2009 in schedule 2 to obtain her consent



and petitioner gave her consent for said appointment and petitioner submitted her joining on 14.07.2009 and same was accepted by the Sarpanch and petitioner assumed charge of Nyay Sachiv and started discharging her duty and she received month to month payment from July 2009 to May 2010.

5. It has been further contended by the petitioner that she is continuing on the post of Nyay Sachiv but she has not been paid her salary from the month June 2010.

6. It is stated that in the year 2011 in the Panchayat election, Sidh Nath Singh has been elected as Sarpanch in Gram Panchayat, Dumra who in place of petitioner, is taking work of Nyay Sachiv from his daughter, namely, Chanchala Kumari. Chanchala Kumari respondent No. 6 is married daughter of present Sarpanch and she was never selected and appointed as such. Petitioner has not been removed from the post of Nyay Sachiv and she is attending the offices but no salary is being paid to her. Petitioner made several representation before the authorities including the District Magistrate, Aurangabad for payment of her salary but no action has been taken by the authorities.

7. A counter affidavit has been filed on behalf of the



respondent Nos. 2 to 4 in which it has been stated that pursuant to advertisement in the year 2007 total six candidates including petitioner and respondent No. 6 Chanchala Kumari had applied for the post of Nyay Sachiv in Dumra Gram Panchayat and a merit list was prepared on the basis of marks obtained by the candidates in their matriculation/Madhyma examination where petitioner was at serial No. 1 and the list was endorsed and signed by the Sarpanch, Dumra and the Nodal Officer of the Block. Petitioner submitted her joining before the Sarpanch on 14.07.2009 and same was accepted by the then Sarpanch and she started working as Nyay Sachiv and was paid salary from July 2009 to May 2010 but since May 2010 she is not working as Nyay Sachiv.

8. It has been submitted that for the post of Nyay Sachiv qualification was matriculation However, vide fresh circular dated 05.07.2010, Madhayama was made equivalent to matriculation and same was valid after 31.01.2008. This High Court in writ petition being C.W.J.C. No. 4494 of 2010 decided by order dated 04.11.2010 has observed that Madhyama is equivalent to matriculation after 31.01.2008 and not prior to it. In the light of order dated 26.11.2010 passed in C.W.J.C. No. 6896 of 2010 Chanchala Kumari (respondent No. 6) made her



representation for her appointment as Nyay Sachiv which was received in the office of B.D.O., Haspura on 20.12.2010 and B.D.O., Haspura vide its letter dated 12.01.2011 directed the Sarpanch, Dumra to consider the claim of respondent No.6 in compliance of Court's order. Meanwhile on 04.01.2011 the Panch Chandramani Devi accepted the joining of respondent No. 6 Chanchala Kumari. This Court in C.W.J.C. No. 6896 of 2010 filed by respondent No. 6 Chanchala Kumari in which petitioner was respondent No. 10, without issuing notice to petitioner disposed of the matter to be decided by the concerned authority after noticing petitioner. However no notice was ever issued by any authority to the petitioner and no order has been passed with respect to removal of the petitioner.

9. It has been further submitted by learned counsel for the petitioner that respondent No. 6 was not eligible for appointment on the post of Nyay Sachiv. Petitioner was appointed on 14.07.2009 after the cut-off-date 31.01.2008 but since no notice was issued to petitioner, she could not bring all those facts before the authorities and as such she is still holding the post of Nyay Sachiv and is entitled for salary.

10. As this Court in C.W.J.C. No. 6896 of 2010 disposed of on 26.11.2010 had directed the competent authority



to decide the matter after giving opportunity to all the concerned parties including the petitioner and same being not done, the Block Development Officer (Nodal Officer), Haspura District, Aurangabad is directed to consider the case of both parties i.e. petitioner as well as respondent No. 6 after giving notices and opportunity to both the parties as well as all the concerned persons and decide the matter within four weeks from the date of receipt/production of a copy of this order passed by this Court.

11. The writ petition is disposed of.

(S. Kumar, J)

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CAV DATE	
Uploading Date	
Transmission Date	

