

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16832 of 2013

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SABITRI DEVI WIFE OF RAM NARESH RAM RESIDENT OF
VILLAGE - GAMHARIYA, P.O. BARAI PATTI, P.S. YADOPUR,
DISTRICT - GOPALGANJ

... .. Petitioner/s

Versus

1. The State Of Bihar Through The Principal Secretary, Social Welfare Department, Bihar, Patna
2. The Director, Social Welfare Department, Bihar, Patna
3. The Colector, Gopalganj
4. The District Programme Officer, Gopalganj
5. The Child Development Project Officer, Gopalganj
6. The Mukhiya, Gram Panchayat Raj Barai Patti, P.O Barai Patti, P.S. Yadopur, District - Gopalganj

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Ghulam Rabbani
For the Respondent/s : Mr. Gautam Bose

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CORAM: HONOURABLE MR. JUSTICE S. KUMAR

ORAL JUDGMENT

Date : 17-04-2018

Heard learned counsel for the parties.

2. This petition under Article 226 of the constitution of India has been filed for quashing the order dated 18.09.2012 passed in Anganwari (Misc.) Case No. 28/2012 by which the Collector has cancelled the merit list prepared for selection of Anganwari Sewika and directed the C.D.P.O Gopalganj to take fresh steps for appointment of Anganwari Sewika and further to appoint petitioner on the post of Anganwari Sewika pursuant to decision taken in the Aam Sabha held on 01.02.2012 for Anganwari Centre Code NO. 193, Gamhariya, Madhy Tola,



Gopalganj.

3. Briefly stated, the case of the petitioner is that petitioner and 8 other candidates had applied for their appointment on the post of Anganwari Sewika for Gamhariya, Madhya Tola Centre, Gopalganj and on 25.01.2012, a merit list was prepared in the meeting of Aam Sabha and as per proceedings of Aam Sabha petitioner was found to be the most eligible candidate for appointment on the post of Anganwari Sewika but appointment letter was not being issued to the petitioner, as such she filed Anganwari (Misc.) Case No. 28 of 2012 in the Court of Collector, Gopalganj, upon which a report was called from Sub Divisional Officer, Gopalganj and he submitted report by letter dated 10.09.2012. The report of the S.D.O. Gopalganj, showed that husband of Smt. Basanti Devi is teacher and petitioner and her husband name is enrolled in voter list-2011 of Gram Panchayat Raj, Bararipati at serial nos. 331 and 330.

4. On 18.09.2012, the learned Collector, Gopalganj after hearing the parties found Smt. Basanti Devi not eligible for the post of Anganwari Sewika and cancelled the merit list prepared for employment of Anganwari Sewika of the aforesaid centre and further directed C.D.P.O to initiate fresh proceeding



for selection of Anganwari Sewika.

5. It has been submitted by the learned counsel for the petitioner that merit list was prepared according to guidelines issued by ICDS and petitioner was found eligible for the post of Anganwari Sewika and as such she ought to have been appointed and direction of District Magistrate, to hold fresh selection is contrary to the guidelines issued by the ICDS.

6. A counter affidavit has been filed on behalf of respondents in which the order of District Magistrate, dated 18.09.2012, passed in Anganwari (Misc.) Case No. 28 of 2012 has been enclosed which was initiated on representation filed by the petitioner that in spite of being recommended for appointment on Anganwari Sewika she is not being given appointment letter and District Magistrate, Gopalganj, after giving opportunity to all interested parties and hearing the Mukhiya of the concerned Panchayat, Basanti Devi and on perusing the report submitted by the S.DO. Gopalganj, has come to the conclusion that claim of Basanti Devi is not genuine and she is not entitled for being appointed as Anganwari Sewika, however, petitioner is resident of Poshak Khshetra and name of her husband is included in the mapping panji prepared for the Anganwari Centre and she is already engaged as Anganwari



Sahaika and she is eligible for appointment on the post of Anganwari Sewika, as such there was no reason for the District Magistrate to direct initiation of fresh proceeding for appointment of Anganwari Sewika although the District Magistrate has himself found the petitioner eligible in all respect and her name being recommended by the Aam Sabha and as such the District Magistrate ought to have directed for her appointment. The District Magistrate had also called a report from S.D.O. Gopalganj and who in his report dated 08.09.2012 after hearing the interested parties and recording their statement and in said report the Mukhiya of the Gram Panchayat has stated that the petitioner is resident of Poshak Kshetra of Anganwari Centre and is eligible for appointment on the post of Anganwari Sevika. The CDPO has also stated that the name of petitioner and his husband is included in the mapping panji prepared of Anganwari Centre and petitioner is at present working as Anganwari Sahaika and eligible for appointment on the post of Anganwari Sewika. All the authorities has submitted report in favour of petitioner but still the District Magistrate although rejecting the claim of Basanti Devi and instead of recommending the appointment of the petitioner has directed to initiate fresh selection proceeding which is contrary to



guidelines issued by ICDS in which it has been provided that if any candidate is declared ineligible then the next candidate in the merit list should be appointed.

7. Considering the facts and circumstances of the present case and perusing the materials available on record, this Court finds that petitioner should have been recommended for appointment on the post of Anganwari Sewika and there was no reason for holding fresh recruitment process when petitioner was eligible for appointment on the said post.

8. As a result, the order passed by the District Magistrate, Gopalganj, is set aside to the extent by which he has directed for initiation of fresh recruitment process and authorities are directed to appoint the petitioner on the post of Anganwari Sewika forthwith.

The writ petition stands allowed.

(S. Kumar, J)

ranjan/-

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	02.05.2018
Transmission Date	N.A.

