

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.613 of 2016
IN
Civil Writ Jurisdiction Case No. 4119 of 2014**

=====

Rina Kumari, W/o Chandrama Prasad, Resident of Village Sadokhar, P.S. Chenari, District - Rohtas at Sasaram, Presently working as Anganbari Sevika at Anganbari Centre No. 62 of Sadokhar Gram Panchayat P.S. Chenari, District Rohtas at Sasaram.

.... Appellant/s

Versus

1. The State of Bihar.
2. The Divisional Commissioner, Patna.
3. The District Magistrate, Rohtas at Sasaram.
4. The District Programme Officer, Rohtas.
5. The Director, Department of Social Welfare, Bihar, Patna.
6. The Sub-Divisional Magistrate, Sasaram, District - Rohtas.
7. The Child Development Programme Officer, Chenari District Rohtas.
8. The Mukhia, Sadhokhar Gram Panchayat, P.S. Chenari, District Rohtas.
9. Mrs. Lalsa Devi, wife of Binda Paswan, Resident of Village Sadhokhar, P.S. Chenari, District Rohtas.

.... Respondent/s

=====

Appearance :

For the Appellant/s : Mr. Chandra Bhushan Das

For the Respondent/s : Mr.

=====

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD)

Date: 13-04-2018

Challenge in the present appeal is to the judgment dated 19.02.2016 passed by the learned Writ Court in Civil Writ Jurisdiction Case No.4119 of 2014 by which the Writ Court has refused to interfere with the order dated 19.09.2013/13.01.2014 (Annexure-9 to the writ application) passed by the Divisional Commissioner, Patna.



2. The Divisional Commissioner, Patna while considering the Misc. Appeal No.382 of 2012 (Lalsa Devi Vs. State of Bihar & Ors.) in the light of the direction of this Court vide order dated 16.02.2012 passed in CWJC No.1603 of 2012 found that the appellant Lalsa Devi was a better qualified candidate having intermediate passed, but a lesser qualified candidate, who is the present appellant, having only matriculation certificate was appointed as Anganwari Sevika due to illegalities and irregularities committed by the then Mukhiya and Secretary of the Panchayat.

3. Learned counsel for the appellant submits while much emphasizing his argument that while passing the order dated 16.02.2012 the learned Writ Court had specifically directed the Divisional Commissioner to pass a fresh order only after hearing the respondent no.8, who is the present appellant, but the Divisional Commissioner proceeded to decide the matter afresh without serving notice on respondent no.8 i.e. the appellant. Learned counsel, however, does not deny the fact that the private respondent no.9 in the present appeal is a better qualified candidate and as per guidelines meant for selection of Anganwari Sevika she would be placed above the present appellant in the select list. Learned counsel for the appellant has attempted to impress upon us by submitting that in the earlier round of litigation the appointment of this appellant was



upheld by the Divisional Commissioner because she was found to be a candidate having lesser status in terms of property whereas the private respondent no.9 is a better placed candidate as her father-in-law was in government service.

4. The appeal preferred by the appellant has been seriously contested by the private respondent no.9. Learned counsel for the private respondent submits that in terms of the guidelines meant for selection of Anganwari Sevika, the private respondent was required to be appointed, but at the relevant time the then Mukhiya and Panchayat Secretary acted in collusion with the appellant and did lot of wrongs by committing illegality in the matter of appointment of Anganwari Sevika for which a criminal case has also been registered against him. It is further submitted that father-in-law of the private respondent had retired long back from service and so far as the better financial condition of the private respondent is concerned, the same is not admitted, moreover this cannot be a ground for selection of the appellant.

5. Having heard learned counsel for the parties, we find that despite the opportunity of hearing given to the present appellant by the learned Writ Court as well as us in appeal the appellant has failed to satisfy that any injustice has been done to her only because she was not heard by the Divisional Commissioner. We find that the



Divisional Commissioner has recorded in the order as contained in Annexure-9 that despite notice the appellant had not appeared to participate in the fresh advertisement process which was undertaken by him pursuant to the order of this Court. Even if assuming that the appellant was not heard by the Divisional Commissioner, in view of the fact that the appellant has got opportunity before the learned Writ Court as well as this Court, but has failed to satisfy us on merit, we are unable to interfere with the order passed by the learned Writ Court. The only criteria is a better educational qualification and the respondent no.9 being intermediate passed will definitely be placed over and above the present appellant. There cannot be any other consideration.

6. We find no merit in the Letters Patent Appeal. It is, accordingly, dismissed.

(Rajendra Menon, CJ)

(Rajeev Ranjan Prasad, J)

Arvind/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	17.04.2018
Transmission Date	N/A

