

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.3952 of 2016

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Usha Devi wife of Ajay Kumar Yadav, R/v- Barmasiya, P.S. & Block- Jhajha,
District- Jamui.

.... Petitioner

Versus

1. The State of Bihar
2. The Principal Secretary, Social Welfare Department, Bihar, Patna.
3. The Director, I.S.D.S, Bihar, Patna.
4. The Divisional Commissioner, Munger.
5. The District Magistrate, Jamui.
6. The District Programme Officer, Jamui.
7. The Child Development Project Officer, Jhajha.
8. The Ward Member of Ward No.6 at Village Barmasiya, P.S.- Jhajha, District- Jamui.
9. Sunita Kumari wife of Surendra Kumar Yadav, R/v+P.O.- Barmasiya, P.S.- Jhajha, District- Jamui.

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Rajesh Kumar Sinha, Adv.

For the Respondent/s : Mr. Kumar Alok, SC8

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

ORAL JUDGMENT

Date: 08-02-2018

The petitioner is aggrieved by the order dated 7.12.2015 passed by the Divisional Commissioner, Munger in Service Appeal No. 26/2014 which in turn confirms the order dated 12.9.2014 of the District Magistrate, Jamui in Misc. Appeal No. 23/2013 dismissing the appeal of the petitioner, thus confirming the selection of respondent no.7 as Anganwari Sevika, Anganwari Kendra No. 203 in the district of Jamui vide order dated 24.12.2012. Copies of the orders dated 24.12.2012, 12.9.2014 and 7.12.2015 are impugned at Annexures 2, 5 and 7 respectively.



A perusal of the orders impugned would confirm that the petitioner has lost her contest to the private respondent on two grounds, namely, (a) qualification received by the petitioner from Deoghar Hindi Vidyapeeth is not recognized and (b) the petitioner is not a resident of Poshak area inasmuch as whereas the centre is located in Ward No.6, the petitioner is a resident of Ward No.7.

The issue raised before this Court has been raised by the petitioner before the statutory authorities and has been rejected all through.

I have heard learned counsel for the parties and have perused the records and even though this Court would not be in agreement with the view expressed by the respondents as regarding the derecognized qualification from Hindi Vidyapeeth, Deoghar inter alia on grounds that whereas the petitioner has obtained her qualification in Parveshika examination held in the year 2005, the degree was derecognized by the Human Resources Department vide order bearing No. 3152 dated 25.8.2008 i.e. three years later and obviously it could not have a retrospective effect but the issue is whether even if the petitioner would cross this obstacle, her candidature can be tested positively for the post.

In my opinion, the answer is in negative because the second obstacle in the way of the petitioner is that an applicant for the post is



mandatorily required to be a resident of Poshak area and unless there are no eligible candidate in the Poshak area that the guideline prescribes for a search in the neighbouring wards but such is not the case here. Undisputedly whereas the centre is located in Ward No.6 of which the private respondent is a resident, the petitioner is a resident of Ward No.7. The petitioner has neither produced any document to contest this factual position either before the statutory authorities or before this Court.

In the circumstances discussed and even though this Court would partially not agree with the reasons assigned by the authorities to reject the claim of the petitioner that the petitioner fails on the residential qualification, her grievance does not warrant indulgence nor requires any interference with the orders impugned.

The writ petition is dismissed.

(Jyoti Saran, J)

Surendra/-

AFR/NAFR	AFR
CAV DATE	NA
Uploading Date	28.02.2018
Transmission Date	NA

