

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9166 of 2017

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Meena Kumari, Wife of Birendra Kumar Rai, resident of Village-
Simarwara, P.S.- Patepur, District- Vaishali.

... .. Petitioner/s

Versus

1. The State of Bihar through the Secretary, Social Welfare Department Government of Bihar, Patna.
2. The Director, Integrated Child Development Scheme, Social Welfare Department, Government of Bihar, Patna.
3. The Deputy Director, Welfare, Tirhut Division, Muzaffarpur.
4. The District Magistrate, Vaishali.
5. The District Programme Officer, Vaishali.
6. The Child Development Project Officer, Patepur, District- Vaishali.
7. Smt. Ruma Kumari, Wife of Raghbendra Kumar, Resident of Village-
Simarwara, P.S.- Patepur, District- Vaishali.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. D.K. Sinha, Sr. Adv. Mr. Kripa Nand Jha, Adv.
For the Respondent/s	:	Mr. G.P. Ojha- GA7 Mr. Ajit Kumar, AC to GA7 Mr. Uday Shankar Pandey, AC to GA7
For the Pvt. Resp.	:	Mr. Rakesh Dubey, Adv.

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY
ORAL JUDGMENT

Date : 27-09-2018

Heard learned counsel for the parties.

In this case, the petitioner is challenging the order of Collector, Vaishali, which is appellate authority dated 21.3.2017 passed in Anganwari Appeal No. 63 of 2015-16, whereby and whereunder, the petitioner has been non-suited on account of the fact that it has been recorded that the petitioner is a resident of ward no.5 which does not fall within the limit of center no.18 though the petitioner in the percentage of marks is on higher side



as the petitioner has secured 72.71% whereas the respondent no.7 has secured 61% and there is a big gap between them.

This matter of selection is depending on as to whether the selection and appointment of Anganbari Sevika has been made on the basis of old mapping or it is based upon the new mapping of the feeder area. As per petitioner, the center no.18, which is under dispute, is comprising of part of ward no.5 and ward no.15 and the post of Anganbwari Sevika has fallen vacant on account of removal of Smt. Krishna Kumari on 21.3.2012 who was appointed in the year 2009 and after the creation of vacancy, the advertisement dated 1.6.2013 was published and the selection was to be made in terms of the guideline issued by the State authority vide letter no. 2005 dated 27.4.2013 wherein some conditions have been mentioned which prescribes that if after delimitation of Anganbari center, shifting area has been activated before 12.3.2013 and the centers are being run as per the creation of new feeder area, in such event, the selection will be made as per creation of new feeder area but, if the shifting work as well as the center has not been made operational, in such circumstances, the selection would be made as per old feeder area with respect to only those cases where the vacancy has occurred on account of termination of the services.



In the present case, two conflicting reports have been submitted, one dated 17.2.2017 (Annexure-11) wherein it has been mentioned that earlier center no.18 is consisting of part of ward 15 and 5, there Meena Kumari was the resident of that center and the selection has to be made as per old feeder area in view of the guideline prescribed by the State Government dated 27.4.2013 (Annexure-2). So she falls within the zone of center no.18, gives report in favour of the present petitioner whereas the District Programme Officer dated 6.3.2017 has given a report that Meena Kumari is the resident of ward no.15 which falls within the territory of Center No.20 whereas Ruma Kumari resident of Ward no.5, she is the resident of Center no.18.

The vital question is that after the delimitation, if the center has become operational before 12.3.2013, in that circumstances, the selection has to be made as per new feeder area but, if the delimitation has been done and center has not been made operational, in such circumstances, the selection has to be made as per the old feeder area and the fact is not very clear as to whether on 12.3.2013, the center was made operational or the center was being run on the basis of old feeder area.

The order of the Collector dated 21.3.2017 and the order dated 6.3.2017 passed by the District Programme Officer, are set



aside and the matter is remanded back to the District Programme Officer who will hold enquiry and record a finding as to whether on the day of advertisement, the new center was made operational or still the center no.18 was in-operational stage. If he finds that the new center was operational an on 12.3.2013, in such circumstances, the selection has to be made as per new feeder area and otherwise it will be as per old feeder area.

All the process must be completed within a period of six months from the date of receipt/production of a copy of this order.

With the aforementioned observation and direction, this writ application is allowed to the extent indicated above.

(Shivaji Pandey, J)

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AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	05.10.2018
Transmission Date	

