

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.7944 of 2013

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Jagti Kumari W/O Shailesh Kumar R/O Mohiuddinpur, P.S.- Ghoshi, District-
Jehanabad

.... Petitioner/s

Versus

1. The State Of Bihar Through The Director, I.C.D.S. Welfare Department, Indira Bhawan, 2nd Floor, Bihar, Patna
2. The District Magistrate, Jehanabad Null Null
3. The District Programme Officer, Jehanabad
4. The Child Development Officer, Ghoshi, Jehanabad
5. The Block Development Officer Ghoshi, Jehanabad
6. Lalit Kumar Sinha S/O Not Known The Mukhiya, Gram Panchayat Raj, Ahiyas Panchayat, Block- Ghoshi, Jehanabad
7. Ranju Kumari W/O Keshar Paswan R/O Mohiuddinpur, P.S.- Ghoshi, District-
Jehanabad

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. D.K. Sinha, Advocate
For the Respondent/s : Mr. Arbind Kumar, Advocate
For the State : Mr. Aditya Nath Jha, AC to SC 18

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CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD

ORAL JUDGMENT

Date: 01-08-2018

Heard learned counsel for the petitioner, respondent State
as well as private respondent.

2. Petitioner has challenged the order dated 03.03.2012
passed in case no. 6 of 2011 by the District Magistrate, Jehanabad
rejecting the petitioner's challenge to selection of respondent no. 7 as
Anganbari Sevika at village Mohiuddinpur in the District of
Jehanabad. The order of the collector has been affirmed by the
Divisional Commissioner in Appeal Case no. 52 of 2011 by order
dated 13.12.2012 which also is challenged in the instant proceedings.

3. The petitioner has sought cancellation of the



appointment of respondent no. 7. The Collector has considered the case of the petitioner in light of the order dated 06.12.2010 passed in CWJC no. 133 of 2009 earlier filed by the petitioner. Under order dated 06.12.2010, this Court had disposed off the petitioner's writ petition directing the consideration of her representation by the District Magistrate, Jehanabad in accordance with law. The order dated 06.12.2010 passed on the petitioner's earlier writ petition is not an expression on the merits of the claim made by the petitioner. In the circumstances all the issues were left open to be examined by the authorities. Only requirement was that the matter was to be considered and disposed off by a reasoned and speaking order in accordance with law.

4. The manner in which the petitioner has challenged the selection of respondent no. 7 itself create a grave doubt on the case set out by the petitioner. The selection is said to have been made pursuant to Aam Sabha dated 26.04.2003. The petitioner's specific assertion in the instant writ petition is that on 26.04.2003 she came to know about the selection and she rushed to Belai where the Aam Sabha was being conducted and they appeared at the venue of the selection. She also asserts that she had applied for her appointment with all certificates of requisite qualifications which was accepted. Her appearance before the Aam Sabha is sought to be sustained by annexing the proceedings of Aam Sabha which shows her presence in the meeting. Having



done so the petitioner was not selected.

5. About six months after the Aam Sabha wherein she has allegedly participated, she has filed a representation dated 15.10.2003 before the Child Development Programme Officer (hereinafter referred to as 'the CDPO'). In the representation filed after a delay of six months after the Aam Sabha, she has taken a totally different stand. She has stated in her representation (annexure 5) that the selection was done without conducting Aam Sabha and in violation of the established procedure. There is total variance with the case of the petitioner set out in her representation and that which has been pleaded in the instant writ petition.

6. Another conduct of the petitioner which would otherwise weigh in the mind of this Court so as to refrain from interfering with the selection of respondent no. 7, thirteen years back, is that having filed such representation on 15.10.2003, for the first time the petitioner has approached this Court after a delay of about six years so as to challenge the appointment of the respondent no. 7 for the first time in CWJC No. 133 of 2009.

7. Since the merits of the petitioner's claim had not been gone into in the order passed on her earlier writ petition, this Court in the present proceedings would take notice of the aforesaid conduct of the petitioner, which makes it clear that she has not only approached this Court after delay, but her claim is also suffering on account of



lack of bonafidies/latches in as much as she has taken a particular plea in her representation before the authorities. However, in the instant proceedings her factual assertions are different as noticed hereinabove. Such conduct of the petitioner would itself disentitle her to avail of the equitable remedy under Article 226 of the Constitution of India.

8. The concurrent findings of the District Magistrate as well as the commissioner in the order passed in Appeal Case no. 52 of 2011 is that the petitioner did not participate in the Aam Sabha wherein the respondent no. 7 was selected. This Court would refrain from interfering with such factual concurrent findings of the two authorities, when the petitioner herself is not sure of her case and has taken a different stand at different time as noticed hereinabove.

9. The selection process is of the year 2003, therefore, this Court is of the opinion that no case is made out by the petitioner so as to invoke the jurisdiction of this Court under Article 226 of the Constitution of India to interfere with the selection of the respondent no. 7 at such a belated stage.

10. With the reasons indicated hereinabove, the writ petition is dismissed.

(Madhuresh Prasad, J)

Prakash/-

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	

