

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16092 of 2010

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SANGITA KUMARI W/O SHIVENDRA KUMAR MAHTO R/O VILL.-
SIMRA (MANAK TOLA), P.S.- PEER, DISTT.- MUZAFFARPUR

... .. Petitioner/s

Versus

1. THE STATE OF BIHAR
2. THE COMMISSIONER, TIRHUT DIVISION, MUZAFFARPUR
3. THE DISTRICT MAGISTRATE, MUZAFFARPUR
4. THE DISTRICT WELFARE OFFICER, MUZAFFARPUR
5. THE DISTRICT PROGRAMME OFFICER, MUZAFFARPUR
6. THE BLOCK DEVELOPMENT OFFICER, BANDARA, MUZAFFARPUR
7. THE CHILD DEVELOPMENT PROJECT OFFICER, BANDARA, MUZAFFARPUR
8. THE MUKHIYA, GRAM PANCHAYAT SIMRA BLOCK- BANDARA, DISTT.- MUZAFFARPUR
9. SMT. ASHOSHILA DEVI W/O DINESH PRASAD R/O SIMRA (MANAK TOLA), P.S.- PEER, DISTT.- MUZAFFARPUR

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Surendra Kr.Singh
For the Respondent/s : Mr. (Aag5)

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL JUDGMENT

Date : 31-07-2018

The present writ petition has been filed for quashing the order dated 02.08.2010 passed by the Commissioner, Tirhut Division, Muzaffarpur whereby and whereunder the order passed by the District Magistrate, Muzaffarpur has been set aside and the selection of the Respondent No. 9, namely, Smt. Sushila Devi has been upheld qua the post of Anganwari Sevika at Anganwari Centre No. 26 falling under the Child Development Project, Bandra, Muzaffarpur.

2. The brief facts of the case are that the petitioner



admittedly, as per her averment made in paragraph no. 4 of the present writ petition, is working as Anganwari Sevika at Centre No. 24 under the jurisdiction of Child Development Project Officer, Block-Bandra, Muzaffarpur since 06.05.1997. Subsequently, a new Anganwari Centre No. 26 was created under the Gram Panchyat Simra whereafter the petitioner and others had applied for appointment of Anganwari Sevika in the year 2007. Finally, the Respondent No. 9 was appointed on the post of Anganwari Sevika under the Centre No. 26. The petitioner had then challenged the appointment of the private-respondent by filing a writ petition bearing C.W.J.C. No. 13785 of 2007 and this Hon'ble Court by an order dated 18.12.2009 had disposed of the said writ petition with liberty to the petitioner to file a representation before the Collector of the District, whereafter, the petitioner had filed a petition before the District Magistrate, Muzaffarpur and the District Magistrate, Muzaffarpur by an order dated 30.06.2010 had disposed of the case of the petitioner by cancelling the appointment of the private respondent, namely, Smt. Sushila Devi and had directed for appointing the petitioner as Sevika at Centre No. 26. It appears that the private respondent namely, Smt. Sushila Devi had challenged the order of the District Magistrate before the



Commissioner, Tirhut Division, Muzaffarpur and the Commissioner, Tirhut Division, Muzffarpur by an order dated 31.07.2010 issued vide Memo No. 5765 dt. 02.08.2010 had set aside the order of the District Magistrate, Muzaffarpur dated 30.06.2010 and cancelled the appointment of the petitioner herein as well as had directed to appoint the private respondent, namely, Smt. Sushila Devi as Sevika at Centre No. 26.

3. The learned counsel for the petitioner has submitted that upon inquiry, the District Magistrate, Muzaffarpur by its order dated 30.06.2010 had found that while the mapping register pertaining to Centre No. 26 contains the names of the neighbours of the house of the petitioner herein, the same does not contain the name of the private respondent and her name finds place in the mapping register at Centre No. 24, hence, the appointment of the private respondent was cancelled and the District Magistrate, Muzaffarpur had directed for appointing the petitioner herein, nonetheless, the Commissioner, Tirhut Division, Muzaffarpur by the impugned order dated 02.08.2010 has illegally set aside the order of the District Magistrate, Muzaffarpur, dated 30.06.2010 and directed for appointing the private respondent on the post of Sevika at Centre No. 26.

4. I have heard the learned counsel for the parties and gone



through the materials on record and I find that admittedly, the petitioner is working as Sevika at Centre No. 24, hence, she could not be considered for appointment at the centre No. 26. It is also apparent from the pleadings that since the petitioner is working at Centre No. 24, either she has obtained employment at Centre No. 24 by fraudulent practice and by misrepresenting about her actual place of residence or she has wrongly stated about her house being situated under the limits of Centre No. 26. It is a matter of inquiry, to be conducted by the District Magistrate, Muzaffarpur, as to whether the petitioner had obtained employment at Centre No. 24 by misrepresentation inasmuch as she is now claiming that her residence lies under Centre No. 26.

5. I find from the impugned order dated 02.08.2010 that since the petitioner is working as Sahaika at Centre No. 24 on the strength of her being a resident of the said area, her claim for appointment at Centre No. 26 has been found to be not entertainable. On the contrary, the private respondent, namely, Mrs. Sushila Devi has not only got more marks than the petitioner herein but also belongs to the backward class and her selection has been made unanimously.

6. Having regard to the facts and circumstances of the case,



I do not find any error in the impugned order dated 02.08.2010
passed by the Commissioner, Tirhut Division, Muzaffarpur,
hence, the present writ petition is dismissed.

(Mohit Kumar Shah, J)

ajay gupta/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	14.10.2018
Transmission Date	NA

