

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.16193 of 2010

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Punam Devi W/O Shri Sujit Kumar Tiwary R/O Vill.- Srikrishnapuri, P.O.- Basara,
P.S.- Saraiya, Distt.- Muzaffarpur

.... Petitioner/s

Versus

1. The State Of Bihar Through The Secretary Social Welfare Deptt., Govt. Of Bihar
2. The District Magistrate, Muzaffarpur
3. The District Welfare Officer, Muzaffarpur
4. The Child Development Project Officer Saraiya, Distt.- Muzaffarpur
5. The Block Development Officer, Saraiya, Distt.- Muzaffarpur
6. The Mukhiya, Gram Panchayat Raj Ambara Tej Singh, Saraiya, Muzaffarpur
7. The Member Secretary, Gram Panchayat Raj Ambara Tej Singh, Saraiya, Muzaffarpur
8. The Up-Sarpanch, Gram Panchayat Raj Ambara Tej Singh, Saraiya, Muzaffarpur
9. The Up-Sarpanch, Gram Panchayat Raj, Ambara Tej Singh, Saraiya, Muzaffarpur
10. Baby Kumari W/O Shri Ram Shreshtha Singh R/O Vill.- Shrikrishnapur, P.O.- Basara, P.S.- Saraiya, Distt.- Muzaffarpur
11. The Commissioner, Tirhut Sub-Division, Muzaffarpur

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Patanjali Rishi
: Mr. Sanjit Kr. Singh
For the Respondent/s : Mr. (GA9)

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH

ORAL JUDGMENT

Date: 19-06-2018

1. The present petition has been filed for quashing the order of the learned court of Commissioner, Tirhut Sub-Division, Muzaffarpur, passed in Service Appeal no. 120/08 dated 21.12.2009, an appeal against the order of learned Collector, Muzaffarpur dated 11.01.2008 which has also been sought to be assailed in the present proceedings.

2. The short facts of the case are that the petitioner was a *Panch* in the village and had applied for the post of *Anganbari Sevika*,



Gram Panchayat Raj Ambara Tej Singh, Saraiya, Muzaffarpur. It is stated in the writ petition that the petitioner had submitted her resignation from the post of *Panch* before the *Up-Sarpanch* on 11.04.2007 and the resignation was accepted on the same day. Thereafter, the resignation of the petitioner was further accepted by the *Sarpanch* on 14.04.2007.

3. The short point raised by the petitioner for consideration is that though the resignation letter was handed over by the petitioner to the *Up-Sarpanch* on 11.04.2007 and the same was accepted by the *Up-Sarpanch* whereafter, the *Sarpanch* had also accepted the same on 14.04.2007 and the merit list was published on 13.04.2007, the petitioner was not granted appointment despite being at serial no. 1 in the merit list.

4. The learned counsel for the petitioner submits that the resignation of the petitioner as a *Panch* had already been accepted on 11.04.2007 by the *Up-Sarpanch*, hence it was incumbent upon the Aam Sabha to consider her candidature while publishing merit list on 13.04.2007. It is further submitted that the only ground for non-suiting the petitioner by the learned Collector as well by the appellate authority i.e. the learned Commissioner, Tirhut Sub-Division, Muzaffarpur is that as on the date of publication of the merit list, the petitioner was not eligible to be considered for appointment on the post of *Anganbari Sevika* since the resignation of the petitioner from



the post of *Panch* had not come into force.

5. I have heard the learned counsel for the petitioner and gone through the materials on record. The learned counsel for the petitioner has also referred to ***Sections 96, 97 and 98 of the Bihar Panchayat Raj Act, 2006***. The relevant section i.e. ***Section 98 of the Bihar Panchayat Raj Act, 2006*** is reproduced hereinbelow :-

“98. *Resignation of Panch-* A *Panch* of *Gram Katchahry* may resign his office in writing under his hand addressed to the *Sarpanch* of the *Gram Katchahry* and his office shall become vacant on the expiry of seven days from the date of such resignation unless within the said period of seven days he withdraws such resignation by writing under his hand addressed to the *Sarpanch*”.

6. A bare reading of Section 98 of the ***Bihar Panchayat Raj Act, 2006*** makes it apparent that a *Panch* of a *Gram Katchahry* would be deemed to have been relieved from his/ her office upon resignation after expiry of 07 days from the date of such resignation, hence in the present case since the resignation was submitted by the petitioner on 11.04.2007, she would have deemed to have been relieved of the responsibilities and the post of *Panch* on 18.04.2007. Therefore, there



is no doubt that the petitioner as on the date of publication of the merit list i.e. on 13.04.2007 was not eligible for being considered for the post of *Anganbari Sevika* since she was still a *Panch* in the *Gram Kutchehry* and her resignation had not taken effect legally.

7. In such view of the matter, I do not find any infirmity in the order dated 21.12.2009 passed by the learned Commissioner, Tirhut Sub-Division, Muzaffarpur and the order dated 11.01.2008 passed by the Collector, Muzaffarpur.

8. The writ petition is accordingly dismissed.

(Mohit Kumar Shah, J)

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AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	25.07.2018
Transmission Date	NA

