

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17749 of 2010

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Nilam Devi W/o Sri Arun Kumar Singh R/o Vill.- Piprahi, P.O.- Pakwalia, P.S.-
Barharia, Distt.- Siwan

.... Petitioner/s

Versus

1. The State of Bihar through the Secretary Govt. of Bihar, Patna
2. The Director Department of Social Welfare, Govt. of Bihar, Patna
3. The Deputy Director Department of Social Welfare, Saran, Chapra
4. The Commissioner, Saran at Chapra
5. The District Magistrate, Siwan
6. The Deputy Development Commissioner, Siwan
7. The District Welfare Officer, Siwan
8. The Child Development Project Officer, Barharia, Distt.- Siwan
9. The Mukhiya, Gram Panchayati Raj Hathigani Anchal- Barharia, Distt.- Siwan
10. Vidhanti Devi W/O Sanjay Kumar Singh R/O Piprahi, P.O.- Pakwalia, P.S.-
Barharia, Distt.- Siwan

.... Respondent/s

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Appearance:

For the Petitioner/s : Mr. NARESH PRASAD I

For the Respondent/s : Mr. Sanjay Kumar, A.C. to AAG-4

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH

ORAL JUDGMENT

Date: 21-06-2018

Heard the learned counsel for the petitioner and the learned
counsel for the State. Nobody has appeared for the respondent no. 10
despite respondent no. 10 having entered appearance through an
Advocate.

The present writ petition has been filed for quashing the order
of Commissioner, Saran at Chapra as contained in Memo No. 477 dated
28.8.2010, whereby and whereunder it has been directed that action be
taken to appoint the respondent no. 10.

The learned counsel for the petitioner has submitted that the
petitioner was selected in pursuance of a selection process initiated in the
year 2006 for the post of Anganwari Sevika in the Gram Panchayat Raj



Hathigai Anchal at Centre No. 230 situated at Government Primary School, Harijan Tola, Piprahi. The merit list was prepared by the selection committee and thereafter the petitioner was selected and issued appointment letter dated 19.5.2007.

In the meantime, the respondent no. 10 had filed a representation before the Collector, Siwan on the allegation that the educational certificate produced by the petitioner is forged. The District Magistrate, Siwan had got the certificates of the petitioner examined by the Bihar Vidyalaya Pariksha Samiti and the Bihar Vidyalaya Pariksha Samiti vide letter dated 25.8.2009 had confirmed that the certificates were genuine, hence the District Magistrate, Siwan vide order dated 12.5.2010 had rejected the claim of the respondent no. 10 and upheld the claim of the petitioner herein and found her appointment to be just and legal. It is further submitted that it appears that during the interregnum period, the respondent no. 10 had filed an appeal before the Commissioner, Saran at Chapra and behind the back of the petitioner enquiry was conducted whereafter the Commissioner, Saran Division, Chapra by an order dated 28.08.2010 without giving any notice or opportunity of hearing to the petitioner herein, held that the respondent no. 10 was the eligible candidate for the purpose of selection to the said post of Anganwari Sevika and directed for taking further action with regard to her selection/appointment.

The short point raised by the learned counsel for the petitioner is that firstly the District Magistrate, Saran, by an order dated 12.5.2010



had found upon enquiry that the certificate of the petitioner were genuine, however, behind the back of the petitioner herein, further enquiry appears to have been conducted by the Commissioner, Saran Division, Chapra and the Commissioner without either giving an opportunity of hearing or complying with the principles of natural justice has passed the impugned order dated 28.8.2010, hence the same is bad and nonest in the eyes of law.

Per contra, the learned counsel for the State has supported the impugned order dated 28.08.2010.

In view of the aforesaid, apparently the impugned order dated 28.08.2010 has been passed behind the back of the petitioner without complying with the principles of natural justice, hence the same cannot be sustained and is quashed and the matter is remanded to the Commissioner, Saran Division, Chapra to make a fresh enquiry and further give an opportunity of hearing to the concerned parties and then pass a fresh order in accordance with law.

The writ petition is allowed to the aforesaid extent.

(Mohit Kumar Shah, J)

S.Sb/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	26.07.2018
Transmission Date	N/A

