

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No 2037 of 2015

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Gyanti Devi W/o Sri Shesh Nath Sharma Resident of Village Kawalhata, Panchayat Singha, Police Station Mirganj, District Gopalganj.

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Social Welfare Department, Govt. of Bihar, Patna.
2. The Director, Integrated Child Development Scheme, Social Welfare Department, Govt. of Bihar, Patna.
3. Deputy Director, Welfare Social Welfare Department, Saran Division, Chapra.
4. Collector-cum-District Magistrate, Gopalganj, Bihar.
5. District Programme Officer, Gopalganj.
6. Child Development Project Officer, Block & Sub Division Hathua, District Gopalganj.
7. Meera Devi W/o Pramod Kumar Resident of Village Gram Panchayat Singha i Tola Kawalhata, P.O. Hathua, Police Station Mirganj, District Gopalganj.

.... Respondent/s

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For the Petitioner/s	:	Mr Vijay Kumar Srivastva, Advocate
For the S t a t e	:	Mr Harish Singh Goldie, AC to GP VI
For Respondent No 7	:	Mr Yogendra Pd Singh, Advocate

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CORAM: HONOURABLE MR JUSTICE MADHURESH PRASAD

ORAL JUDGMENT

Date: 02-07-2018

Heard learned counsel for the petitioner, State and private respondent No 7.

2 The petitioner has challenged the order dated 19.08.2014 passed by the Deputy Director (Welfare) allowing the Angan Bari Appeal No 44 of 2013 of Respondent No 7 against the order dated 31.07.2013 passed by the District Programme Officer, Gopalganj in Case No 10 of 2013.

3 The District Programme Officer, in Case No 10 of 2013, had cancelled the appointment of private respondent No 7 and



directed the petitioner to join as Angan Bari Sevika at Angan Bari Kendra Kawalhata Panchayat, Hathua in Ward No 7 in the district of Gopalganj. It is submitted by the learned counsel for the petitioner that the selection of respondent No 7 was rightly cancelled by the order of the District Programme Officer since her *Gotni* was an Assistant Teacher and, as such, the candidature of respondent No 7 was barred by Clause 4.9 of the Regulations. It is also submitted that since Extremely Backward Class (for brevity, *EBC*) was the predominant caste, therefore, selection of respondent No 7, who is the member of the caste "*Ahir*", which is a Backward Caste (for brevity, *BC*), was also contrary to Clause 4.2 of the Guidelines of 2011 which mandates that preference should be given in matters of selection to the members of dominant class. It is submitted that since petitioner is a member of *EBC*, therefore, she had the rightful claim for the selection.

4 Counter affidavit has been filed on behalf of the State as well as private respondent No 7.

5 On behalf of Respondent No 7, it is submitted that the bar under Clause 4.9 is not applicable with respect to Respondent No 7 since her "*Gotni*" was in employment and appointment of "*Gotni*" will not be considered as creating a bar for consideration of Respondent No 7's selection.



6 The term “relative” does not include *Gotni* and this has been decided by this Court in the case of *Anuradha Kumari – Versus- State of Bihar & Others, 2018 (1) PLJR 909*. The relevant paragraph of the said judgment, which supports the contention of the Petitioner, is paragraph 7 in which it has been specifically held that *Gotni*, who is wife of the brother of the husband, shall not come in the disqualification clause for such appointment. On this score, the selection of Respondent No 7 cannot be faulted.

7 As regards the other ground regarding violation of Clause 4.2, it is the specific stand of the State that *Ahir (Yadav)* was the dominant caste in the area which has not been controverted by the Petitioner by filing any rejoinder. “*Ahir*” (*Yadav*) being BC, the other submission of the petitioner that the selection be made from the EBC category is not worthy of any consideration.

8 The order, therefore, passed by the Appellate Authority upholding the selection of respondent No 7 is in accordance with the said Guidelines.

9 Writ petition is dismissed.

(Madhuresh Prasad, J)

M.E.H./-

AFR/NAFR	NAFR
CAV DATE	NA
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