

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.2271 of 2015

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Rinku Kumari W/o Ajay Kumar resident of village- Sultanpur, P.O- Manjaur,
P.S+Block- Warsaliganj, District- Nawadah.

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Social Welfare, Govt. of Bihar, Patna.
2. The Director, I.C.D.S., Bihar Patna.
3. The Divisional Commissioner, Magadh Division Gaya.
4. The Deputy Director (Welfare), Magadh Division, Gaya.
5. The District Magistrate Nawadah. null null
6. The District Programme Officer, Nawadah.
7. The Child Development Project Officer (C.D.P.O.), Warsaliganj Block, District- Nawadah.
8. Sundari Devi W/o Aanandi Prasad, resident of village- Sultanpur, P.O- Manjaur, P.S+Block- Warsaliganj, District- Nawadah.

.... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Arun Kumar, Advocate
For the Respondent/s	:	Mr. R.R. Sinha, SC 19
		Mr. Akhilesh Kumar Sinha, Ac to SC 19
		Mr. Durgesh Nandan, Advocate
		Ms. Manisha Prakash, Advocate
		Mr. Jitendra Kumar, Advocate

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CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD

ORAL JUDGMENT

Date: 23-07-2018

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

2. The petitioner has challenged the order dated
20.11.2014 passed in Anganbari Revision Case No. No. 65K of 2014
whereby and where under the Revision preferred by the private
respondent no. 8 without impleading the petitioner as a party



respondent have been allowed.

3. Counsel for the respondent no. 8 submits that during pendency of her appeal and revision the petitioner had come to be appointed in her place on the post of Anganbari Sevika. The records reveal that the petitioner came to be appointed on 06.09.2012 and at that point of time cancellation of respondent no. 8 selection was in challenge before the appellate authority as per order dated 17.07.2012 passed in C.W.J.C. No. 11816 of 2012.

4. The Appeal/Revision as per order sheet placed on record by way of Annexure 5 was heard on 04.09.2012 and order was finally passed on 12.09.2012. In between hearing of the private respondent's appeal and passing of final orders thereupon, appointment letter was issued to the petitioner on 06.09.2012. The respondent no. 8 has succeeded in the revision application filed against cancellation of her selection pursuant to inspection of Anganbari Kendra, wherein some irregularity was alleged.

5. Counsel for the respondent no. 8 has submitted that during pendency of her appeal before the authorities, the appointment of the petitioner was made. As such appointment of the petitioner was made subject to final outcome of her appeal.

6. Respondent no. 8 has also placed on record the Aam Sabha proceedings pursuant to which the petitioner claims to have



been appointed. He has rightly pointed out to this Court that though petitioner claims that the Chairman and Vice Chairman had participated in the proceedings but they had not signed in the proceeding. Proceedings of the Aam Sabha is unsustainable in law. Out of four candidates, three were resident of ward no. 4 whereas the selection has been made for ward no. 3 leaving the petitioner the only eligible candidate. This is more than a coincidence, viewed in the backdrop of the fact that proceedings were neither signed by the chairman and Vice Chairman.

7. There is no rejoinder opposing these issues raised in the counter affidavit filed on behalf of the respondent no. 8. The assertions have not been denied or disputed.

8. Even otherwise such a new appointment in place of terminated candidate, which otherwise also is illegal, shall be subject to verdict of higher forum/authority, in the pending proceedings.

9. This Court finds no infirmity in the order passed by the revisional authority. The writ petition is devoid of any merit.

10. The same is dismissed.

(Madhuresh Prasad, J)

Prakash/-

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	

