

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.1319 of 2018

In
Civil Writ Jurisdiction Case No.4699 of 2015

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Nirmala Kumari @ Nirmla Devi @ Nirmala Devi W/o Shiv Shankar Sharma,
resident of Village- Mohania, Gram Panchayat- Mohania, Ward No.- 11, P.S.-
Mohania, District- Kaimur (Bhabua).

... .. Appellant/s

Versus

1. The State of Bihar through the Deputy Director, Welfare Department, Patna.
2. The Deputy Director, Welfare Department, Govt. of Bihar, Patna.
3. The Collector-cum-District Magistrate, Kaimur (Bhabua).
4. The District Programme Officer, Kaimur, (Bhabua).
5. The Child Development Project Officer, Mohania, Kaimur.
6. Mukhiya Gram Panchayat Mohania, Ward No.-11, Kaimur (Bhabua).
7. Secretary, Gram Panchayat Mohania, Ward No.-11, Kaimur (Bhabua).
8. Kalma Bano wife of Mustaqu Rai, R/o Gram Panchayat Mohania, Ward No.-
11, P.S.- Mohania, District-Kaimur (Bhabua).
9. Sharda Devi wife of Ranjan Kumar Keshri R/o Gram Panchayat Mohania,
Ward No.-11, P.S.- Mohania, District-Kaimur (Bhabua).

... .. Respondent/s

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Appearance :

For the Appellant/s	:	Mr. Binod Murari Mishra, Advocate
For the State	:	Mr. Gyan Prakash Ojha, G.A. 7
For the Respondent/s	:	Mr. Sourendra Pandey, Advocate
		Mr. Rajesh Kr. Mishra, Advocate

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CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE JUSTICE SMT. ANJANA MISHRA
ORAL JUDGMENT
(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 27-11-2018

Heard Shri Binod Murari Mishra, learned Counsel for
the appellant, and Shri Gyan Prakash Ojha, learned Counsel for the
State, and Shri Sourendra Pandey, learned Counsel for the 8th
Respondent.

The appeal questions the correctness of the impugned
judgement dated 13.08.2018 whereby the claim of the appellant



has been rejected holding that on both grounds that had been raised questioning the selection of the 8th respondent were not available in law and were also factually incorrect. Shri Mishra, learned Counsel for the appellant, contends that, as a matter of fact, the concerned authority, namely the Additional Collector, Kaimur, while passing the order dated 13th February, 2013 had observed that the father-in-law of Respondent No. 8 was elected as a 'Panch' and, secondly, the mapping register had not been prepared in accordance with the procedure prescribed in law. He, therefore, submits that on account of the aforesaid infirmities, the selection of Respondent No. 8 was invalid and the learned Single Judge has committed an error in dismissing the writ petition.

On the other hand, learned Counsel for the Respondents contend that, as a matter of fact, when the matter was taken up in appeal, the facts were investigated and in view of the mapping which had been carried out and which stood approved, the same categorically indicated that the population that was to be catered under the scheme consisted of 550 Muslims, 74 Extremely Backward Category, 93 General Category, 141 of the Backward Category and 187 of the Scheduled Caste Category. According to this calculation, learned counsel submits the selection of Respondent No. 8 was absolutely justified keeping in view the



predominant nature of the population as reflected in the aforesaid mapping figures indicated above.

The appellate order came to be challenged in the writ petition which has given rise to the present appeal, but we do not find that the said facts and figures as found by the Appellate Authority, namely the Deputy Director, Welfare were challenged. Consequently, once the factual foundation that forms the basis of the appellate order has not been questioned on any material, then in that event, such a finding cannot be disturbed in the exercise of extraordinary jurisdiction under Article 226 of the Constitution of India. The learned Single Judge, therefore, cannot be said to have committed any error in dismissing the writ petition.

We do not find any merit in the appeal, which is accordingly dismissed.

(Amreshwar Pratap Sahi, CJ)

(Anjana Mishra, J)

K.C.Jha/Uma/-

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