

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2395 of 2019

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Mamta kumari wife of Ajay Kumar Resident of Village-Araria, Block-Sonbarsa, P.S. Sonbarsa, Dist.-Sitamarhi

... .. 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 Services, Govt. of Bihar, Patna
3. The District Magistrate, Sitamarhi
4. The Civil Surgeon, Sitamarhi
5. The District Programme Officer (I.C.D.S.), Sitamarhi
6. The C.D.P.O., Block- Sonbarsa, Sitamarhi
7. The Medical Officer, Primary Health Centre, Dumra, Sitamarhi
8. The Lady Supervisor-cum- Secretary, Block Sonbarsa, Selection Committee, Sonbarsa, Sitamarhi

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Ashhar Mustafa, Adv.
For the Respondent/s	:	Mr. S.K. Mandal (SC-3)
		Ms. Neelam Kumari, AC to SC-3

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CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
ORAL JUDGMENT

Date : 18-02-2019

The petitioner has challenged the order dated 10.01.2019 passed by the District Programme Officer (I.C.D.S.), Sitamarhi whereby the appointment of the petitioner on the post of Anganbari Sewika at Centre no. 217 in the district of Araria has been cancelled on the ground that the medical certificate of disability which was furnished by her at the time of her appointment was not correct and the petitioner did not have any disability.



It has been submitted on behalf of the petitioner that she had applied against an advertisement issued in the year 2018 for the post of Anganbari Sewika. The petitioner was placed at Sl. No. 2, but the candidate at serial no. 1 having declined the offer of appointment and on the petitioner having been given a weightage point of 5 more marks on the ground of being differently abled, she was offered the appointment letter which was accepted by her.

Learned counsel for the petitioner submits that before such appointment letter was handed over, in accordance with guidelines of 2011, the certificate of disability of the petitioner was subjected to further confirmation and the appointment letter was issued only after the same was found to be genuine and correct. Later on a complaint, a fresh medical board was constituted under the directions of the District Magistrate-cum-Collector, Sitamarhi and it was found by the last of the medical boards constituted for the



purpose that though the petitioner and others were differently abled, but the percentage of disability had been exaggerated. In the case of the petitioner, it was found that she was not at all suffering from any disability. Based on the aforesaid report of the medical board, the appointment of the petitioner on the post of Anganbari Sewika was cancelled by the District Programme Officer (I.C.D.S.) Sitamarhi.

Mr. Ashhar Mustafa, learned advocate appearing for the petitioner has submitted that once a medical board was constituted for verifying the genuineness of the disability certificate furnished by the petitioner under Clause 12 of the guidelines by the C.D.P.O. who was the competent authority to verify the genuineness of such certificates, there was no reason for the Collector to have exercised power, in the first instance, in ordering for a fresh Constitution of Medical Board. Though the petitioner did not challenge the aforesaid order/direction and submitted application for



scrutiny of the medical board nonetheless, if there was any report regarding the petitioner not suffering from any disability whatsoever, the petitioner at least deserved a notice before cancellation of her appointment in accordance with Clause 12 of the guidelines for appointment of Anganbari Sewika/Sahayika. The petitioner therefore has challenged the order of cancellation of her appointment as without jurisdiction and prays for setting aside the same.

From the records it appears that against the order passed by the District Programme Officer, Sitamarhi, the petitioner, without approaching the Collector, who is the second appellate authority has approached this court on the ground that the order itself is vitiated because of non-observance of Clause 12 of the guidelines as well as the principles of natural justice in a general manner and therefore, it was not necessary to agitate the case before the appellate authority.

This court feels that the petitioner is required to



place her grievance before the Collector Sitamarhi for the needful.

The petitioner therefore is, directed to make a representation/appeal before the Collector Sitamarhi within a period of three weeks from today, on receipt of which, the Collector shall, after hearing the parties and after verifying the records, would pass a reasoned order in accordance with law, within a period of four weeks thereafter.

With aforesaid direction/order the writ petition is dismissed.

(Ashutosh Kumar, J)

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AFR/NAFR	
CAV DATE	NA
Uploading Date	25.02.2019
Transmission Date	

