

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No 3419 of 2016

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Sujita Kumari, W/o Mukesh Kumar Raut, R/o Village - Loma, P.O.+ P.S.
Sahar Ghat, Block - Madhawapur, District - Madhubani

... .. Petitioner/s

Versus

1. The State Of Bihar through Commissioner -cum- Secretary, Department of Social Welfare, Government of Bihar, New Secretariat, Patna
2. The Director, Department of Social Welfare, Govt. of Bihar, New Secretariat, Patna
3. The District Magistrate, Madhubani
4. The Senior Deputy Collector, Madhubani
5. The District Programme Officer, Madhubani
6. The Child Development Project Officer, Block Madhawapur, District - Madhubani
7. The Mukhiya, Gram Panchayat Raj, Sahar South, Block Madhawapur, District - Madhubani

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr Shashi Bhushan Kumar, Advocate
For the S t a t e	:	Mr Ranjan Kumar, AC to GA XII
For Respondent No 8	:	Ms Ratnakar Jha, Advocate

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CORAM: HONOURABLE MR JUSTICE MADHURESH PRASAD

ORAL JUDGMENT

Date : 18-04-2019

Heard learned counsel for the petitioner and the respondent-State.

2 It is submitted by petitioner's counsel that the order dated 09.09.2015 impugned in the instant writ petition is issued by the Child Development Project Officer (for brevity, *CDPO*), Madhawapur. It is further submitted that the CDPO was not the competent authority for cancelling the petitioner's selection as



Angan Bari Sevika. The ground, on which selection of the petitioner has been cancelled, is that in terms of Clause 4.8 of the Guidelines, the petitioner's candidature was disqualified on account of the fact that her mother-in-law was a public representative, i.e., Ward Member of Gram Panchayat Raj Sahardachini.

3 Petitioner's plea that her mother-in-law had resigned has been denied by respondents.

4 Learned counsel for the State placed reliance on the communication of the Block Development Officer, Madhawapur (Annexure R5/B) to show that the resignation, allegedly submitted by the mother-in-law of the petitioner, has never taken effect till filing of the counter affidavit.

5 Aforesaid averments are not denied or disputed by the petitioner by filing any reply or rejoinder to the counter affidavit. The issue, therefore, is whether the petitioner was qualified for the selection? In view of the bar under Clause 4.8 of the Guidelines, petitioner was disqualified and, as such, she cannot seek issuance of a writ so as to quash the order dated 09.09.2015 to restore an illegality. The writ jurisdiction under Article 226 of the Constitution of India cannot be invoked for reviving illegality. This issue stands settled in the case of *Maharaja Chintamani*



*Saran Nath Shahdeo -Versus- State of Bihar & Others, (1999) 8
Supreme Court Cases 16.*

6 Writ petition is devoid of merit and the same is
dismissed.

(Madhuresh Prasad, J)

M.E.H./-

AFR/NAFR	AFR
CAV DATE	NA
Uploading Date	22.04.2019
Transmission Date	NA

