

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7944 of 2015

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Kanchan Kumari wife of Sri Niranjan Khan resident of Ward No. 2 Bangaon South Panchayat, P.S. - Bangaon, District -Saharsa.

... .. Petitioner/s

Versus

1. The State Of Bihar through the Principal Secretary, Department of Social Welfare, Government of Bihar, Patna
2. The Director , I.C.D.S. Bihar , Patna
3. The Deputy Director (Welfare), Koshi Division, Saharsa.
4. The District Programme Officer, Saharsa.
5. The Child Development Project Officer (C.D.P.O.), Kahra, District - Saharsa.
6. Ashok Kumar Jha S/o Late Sobha Kant Jha, Ward Member, Ward No.1 , Bangaon South Panchayat, P.S.- Bangaon, District- Saharsa.
7. Smt. Neelam Kumari @ Neelam Devi wife of Sri Ashok Kumar Jha , resident of village- Bangaon Dakshin, P.S.- Bangaon , Block - Kahra, District- Saharsa.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Pramod Mishra, Advocate
For the Respondent/s	:	Mr. Madhukar Mishra, AC to SC-16
For the respondent No.7	:	Mr. Rajesh Ranjan , Advocate.

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CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL JUDGMENT

Date : 06-11-2019

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

2. The petitioner was selected as *Anganbari Sevika* for center No. 36 of Gram Panchayat Raj Bangaon (south) in the District of Saharsa. The selection of the petitioner was assailed on various grounds by the private respondents. The District



Programme Officer rejected the challenge to the petitioner's selection. In the circumstance, the private respondent approached the Appellate Authority (Deputy Director (Welfare), Koshi Division, Saharsa).

3. The Appellate Authority has cancelled the selection of the petitioner and directed for selection afresh. It is this order which is impugned by the petitioner in the instant proceedings. On going through the order, this Court would observe that various factual findings have been recorded by the Deputy Director (Welfare) including the fact that the proceedings of the *Aam Sabha* dated 07.06.2013 were not conducted properly. He has recorded a finding that some persons have obtained signatures of some of the participants of the *Aam Sabha* forcibly or by hoodwinking so as to ensure that the petitioner having 82.55% marks came to be selected apart from the fact that relatives of the petitioner are Government employee and elected representatives. The Deputy Director, (Welfare) has also held the section of the



petitioner to be bad on account of the fact that her husband is a Statistic Enumerator.

4. The counsel for the petitioner has assailed the said finding. It is his specific case that the class of relatives who are disqualified in terms of 4.8 and 4.9 of the Guidelines of 2011 does not include the petitioner as her sister is an elected representative and her husband's elder brother is in Government employment who are not covered by the provisions contained in 4.8 and 4.9 of 2011 guidelines.

5. This Court would not consider it necessary to go into the said issue in the instant proceedings. The findings of the Deputy Director (Welfare) are based on the facts regarding the *Aam Sabha* not being conducted in accordance with law; and the fact that the petitioner's husband was selected as a 'Statistic Enumerator', and upon his appointment had also gone for training.

6. The petitioner's counsel submits that till then the husband of the petitioner had not joined. Such non-joining in the opinion of the court can not be made the basis to conclude that he was not



appointed. There was no averments that he has resigned after taking training, or that he was not appointed. Mere non-joining would not enure to the benefit of the petitioner, as the candidate whose husband was a government employee has specifically been disqualified in terms of 2011 guidelines.

7. The decision of the Deputy Director (Welfare) cancelling the petitioner's selection and directing for selection afresh to ensure that the best person is selected for disseminating the welfare measure for the beneficiaries does not require any interference.

8. The writ petition is dismissed.

(Madhuresh Prasad, J)

shyambihari/-

AFR/NAFR	NAFR
CAV DATE	N/A
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