

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.19076 of 2010

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Sunita Devi W/O Laloo Yadav R/O Vill.- Bayasi Chakla, P.S.- Ratanpur And
Distt.- Supaul

... .. Petitioner/s

Versus

1. The State of Bihar
2. Commissioner, Koshi Division, Saharsa
3. District Magistrate, Supaul
4. District Programme Officer, Supaul
5. District Welfare Officer, Supaul
6. Child Development And Project Officer Basantpur, P.S.- Birpur And Distt.-
Supaul
7. Punam Devi W/O Deo Narayan Mehta R/O Vill.- Bayasi Chakla, P.S.-
Ratanpur, Distt.- Supaul

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Anil Kumar Mukund, Adv. Mr. Purnendu Keshav, Adv.
For the State	:	Mr. Ashish Kumar Lal, AC to GA5
For the Pvt. Resp.	:	Mr. Amrit Abhijat, Adv.

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY
ORAL JUDGMENT

Date : 18-01-2019

Heard learned counsel for the parties.

In the present case, the petitioner is challenging the order dated 4.11.2010 in Appeal No. 40 of 2010 passed by the Commissioner, Koshi Division, Saharsa who has affirmed the order passed by the District Magistrate, Supaul dated 15.6.2010 by which he has found the selection and recruitment of Sunita Devi, the present petitioner, to be illegal and canceled the same with a direction to the C.D.P.O. to make selection on the basis of seniority in the panel prepared within a period of fifteen days and



liberty was also given to challenge the order of the Collector before the appropriate forum within a period of one month.

The matter relates to appointment of Anganwari Sevika of Center no.37 Gram Panchayat Ratanpur, village Bayasi Chakla. The facts emerges from the record of this case that the advertisement was published on 14.4.2007 calling application from intended persons to file respective application within 20.04.2007 to 29.04.2007 for the post of Anganwari Sevika and, accordingly, the respondent no.7 only had applied, accordingly, the merit list was prepared and published on 2.5.2007, the Selection Committee held Aam Sabha for selection of Anganwari Sevika on two dates, namely, on 10.5.2007 and 27.6.2007 but, failed to select any candidate to the post rather found the mapping register defective and resolved to make amendment in it. After necessary correction in the mapping register, a fresh merit list was published on 10.8.2007 and, on the basis of that, Sunita Devi was selected on 11.8.2007. The matter was sent for enquiry at the instance of the District Magistrate, Supaul, the enquiry was conducted by the District Programme Officer who submitted enquiry report dated 31.3.2010, found that the selection of the present petitioner was illegal and recorded that Punam Devi was the solitary candidate in the merit list dated 2.5.2007. In the meeting of Aam Sabha dated



10.5.2007 and 27.6.2007, it was decided to conduct the survey and correct the mapping register but, in both the Aam Sabhas, recruitment could not be made on the basis of merit list dated 2.5.2007. Later on, Punam Devi, the respondent no.7, lodged protest dated 2.8.2007 which was enquired into by the District Welfare Officer, Supaul who, vide letter no. 533 dated 10.8.2007, directed the C.D.P.O., Basantpur, to ensure the selection within a prescribed time period but, on account of intervention of Mukhia and Panchayat Sevak, they ignored the merit list and the Aam Sabha was conducted on 10.5.2007 and 27.6.2007, thereby, the feeder area was changed, applications were invited, fresh merit list was prepared and appointment in favour of the petitioner was issued on 11.8.2007. All procedure completed within three days which, on the face, appears the procedure prescribed was not followed.

There is no dispute and doubt the manner the selection and recruitment of the present petitioner has been made, is not in accordance with the guideline issued from time to time by the Government. When the mapping was done after proper survey, Aam Sabha was called for recruitment of Anganwari Sevika and it also appears that Punam Devi was the singular person in the panel but, instead of issuing letter of appointment order, a fresh feeder



area was created and the entire selection has been made dehors to the guideline. Earlier, Punam Devi was the only applicant for the post of Anganwari Sevika.

This Court is of the view that the order of the Collector and the Commissioner cannot in any manner be faulted with as the entire selection process that has been followed in connection with the Sunita Devi is completely illegal and cannot be sustained but, in the meantime, it is also clear that in the earlier panel, only Punam Devi was the sole candidate and there was no other claimant in the panel of proposed selection of Anganwari Sevika and there is no challenge to creation of new feeder area.

Learned counsel for the petitioner submits that the petitioner had worked upto 2010 and, after her removal, the respondent no.7 has been working there as Anganwari Sevika.

It is very strange that two feeder areas were earmarked. In one feeder area, according to Punam Devi, she was singular candidate and, later on, the Aam Sabha was called and another feeder area has been created. In the present case, the feeder area is not under challenge, only the recruitment is under challenge and this Court does not know that the respondent no.7 could have been selected in the new feeder area. So in order to remove all the confusions and uncertainty, it will be desirable that let there should



be afresh recruitment of Anganwari Sevika and center no. 37, Gram Panchayat Ratanpur will be treated to be vacant. Accordingly, this Court directs the C.D.P.O. to ensure publication of the advertisement, giving a clear cut date for filing of the application of the interested persons, the panel must be prepared as per guideline giving sufficient period for raising objection and, in the event of objection being raised, it will be the duty of the Selection Committee to deal with the objection, if any, filed, and whoever secured highest number, on the basis of point earned, will be appointed as Anganwari Sevika.

This Court is not giving any opinion on the merit of the case but, till fresh selection is made, the respondent no.7 will continue to work.

With the aforementioned observation and direction, this writ application is disposed of.

(Shivaji Pandey, J)

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