

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14183 of 2014

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Razia Khatoon Wife of Ashraf Ali Resident of Village- Giridhar Parsa Thawai
Tola, P.S.- Phulwaria, District- Gopalganj.

... .. Petitioner

Versus

1. The State Of Bihar through Principal Secretary, Social Welfare Department,
Govt. of Bihar, Patna
2. The Principal Secretary, Social Welfare Department, Govt. of Bihar, Patna.
3. The Director, ICDS, Bihar, Patna.
4. The Deputy Director, Welfare, SAran Division, Chapra.
5. The District Magistrate, Gopalganj.
6. The District Programme Officer, Gopalganj.
7. The Block Development Officer, Phulwaria, District - Gopalganj.
8. The Child Development Project Officer, Phulwaria, District- Gopalganj.
9. Rizwana Khatoon Wife of Nazibullah, Resident of Village- Giridhar Parsa
Thawai Tola, P.S.- Phulwaria, District- Gopalganj.

... .. Respondents

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Appearance :

For the Petitioner	:	Mr.Ranjeet Kumar Pandey
For the Respondents	:	Mr. Raghwanand, GA 11 Dr. Kamal Deo Sharma, AC to GA 11
For Respondent No. 9	:	Mr. Naresh Dikshit Mr. Sumit Shankar Pandey Mr. Brij Bihari Tiwari

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CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

3 13-08-2019 Heard learned Counsel for the petitioner and the
learned Counsel for the respondent State.

The petitioner has filed the instant writ petition for
setting aside order dated 20.6.2014 passed by Appellate
Authority in Anganwari Appeal No. 104 of 2014, whereby order
of the District Programme Officer has been reversed.

Counsel for the petitioner submits that the petitioner
was entitled to selection as Sevika for the center in question
since resignation had been duly submitted on 2.8.2013 by



petitioner's sister-in-law paving way for her appointment.

The brief background is that the petitioner is at the second serial in the merit list and because the center in question was found to be of general category in terms of majority of population, the petitioner was selected ignoring the first empanelled candidate i.e. respondent No. 9 who happened to be a candidate belonging to EBC. Since sister-in-law of the petitioner was employed there was requirement that she should submit her resignation. The resignation was to be submitted within 15 days from 1.8.2013 whereas the same has been submitted on 17.8.2013.

The District Programme Officer was of the opinion that by overwriting, the date of submission of the duly accepted resignation has been changed. Therefore petitioner's submission of resignation and communication before the Aam Sabha was within 15 days i.e. by 15.8.2013, but wrongly shown as 16.8.2013; and the petitioner has wrongly been deprived of joining. The matter was taken up before the Deputy Director Welfare in appeal.

The specific finding is that resignation was accepted by the competent authority on 17.8.2013 itself. In view of acceptance of resignation being on 17.8.2013 the Deputy Director Welfare has rightly concluded that by no stretch of imagination the same could have been submitted/communicated on 16.8.2013. The findings of the District Programme Officer are merely based on submissions made by the petitioner, supported by some other officials that there was overwriting. The findings of the Deputy Development Commissioner in appeal are based on consideration of the date on which the petitioner's resignation was accepted by the competent



authority. The same does not leave any room for submission of the intimation regarding resignation prior to 17.8.2013. On that account the petitioner has no case.

It is further submitted by Mr. Pandey, appearing for the petitioner, that since majority caste was general the petitioner by virtue of being candidate from EBC could not have been selected.

It appears from the proceedings that placing reliance on the decision of the department dated 3.2.2012, respondent No. 9 being the next candidate in terms of merit, even though she was not belonging to general category was entitled to be selected as there was no candidate available from General Category, and has accordingly been done. On that account also, this Court does not find any infirmity in the selection of respondent No. 9.

The writ petition is devoid of merit and the same is dismissed.

(Madhuresh Prasad, J)

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