

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8417 of 2015

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Pushpa Kumari wife of Kundan Rajbanshi, Resident of village- Manikpura,
Panchayat- Khanwan, P.S.- Narhat, District- Nawada.

... .. Petitioner

Versus

1. The State Of Bihar through the Principal Secretary Department of Social Welfare, Govt of Bihar, Patna
2. The Principal Secretary, Department of Social Welfare, Department of Social Welfare, Govt. of Bihar, Patna
3. The Director, Integrated Child Development Scheme, Social Welfare Department, Govt. of Bihar, Patna
4. The Deputy Director, Kalyan (Welfare) Magadh Division, Gaya.
5. The District Programme Officer, Nawada, District- Nawada.
6. The District Magistrate, Nawada.
7. The Child Development Project Officer Narhat, District- Nawada.
8. The Block Development Officer, Narhat, District- Nawada.
9. Shobha Rani, Wife of Rakesh Kumar, Resident of village- Bandhachak, Panchayat-Khanwan, P.S.- Narhat, District- Nawada.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Arun Kumar Arun
For the Respondent/s : Mr.P.K. Verma
For the Respondent No.9 : Mr. Bhaskar Shankar, 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.9.

2. Learned counsel for the petitioner submits
that the issue regarding the private respondent
not being a member of the predominant caste is
not relevant in view of the position



emanating from the guidelines. The submission is advanced since the counsel, upon going through the guidelines, has realized that in absence of applicant from the predominant caste being available, the guidelines permit that the selection can be done from the other caste as per priority specified in the guidelines itself.

3. The issue raised today is that he is under instruction that private respondent i.e. respondent no.9 was not even a resident of *Posak Kshetra*, and, therefore, could not have been selected.

4. The counsel for the respondent-State as well as the private respondent No.9 submit that no such issue was raised before the Authorities. The submission of the respondents appear to be correct.

5. However, this Court would observe that if the private respondent no.9 suffers such a disqualification then she could not have been considered in the matter of section altogether. Such observations are only being made to highlight the legal position emanating from the



guidelines and may not be taken as an expression on the merit of the assertion made by the petitioner's counsel.

6. The issue whether the petitioner had submitted a residential certificate issued by the competent Authority under the Guidelines at the time of her selection can easily be examined by the Authorities to ascertain whether she was a resident or not.

7. For this, the parties agree that they will appear before the Deputy Director (Welfare), Magadh Division, Gaya (Respondent No.4) on or before six weeks i.e. 06th of January,2020. The respondent No.9 shall produce the residential certificate duly issued by the competent Authority after due service of the same on the petitioner.

8. The validity of the residential certificate coupled with the fact that same has been made the basis of her selection would not be brought in question by the petitioner, if the same is already on record in the proceedings before the Appellate Authority as that would be an issue for which the



petitioner has other remedies.

9. The writ petition stands disposed off.

(Madhuresh Prasad, J)

shyambihari/-

AFR/NAFR	NAFR
CAV DATE	N/A
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