

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16571 of 2012

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Satyabhama Devi, W/O Shri Ram Vinod Pandey, Resident of Village-
Laxmipur Kanuahi, Police Station- Pandaul, District- Madhubani.

... .. Petitioner/s

Versus

1. The State Of Bihar and Ors
2. The Director, Rural Development Department, Government Of Bihar, Patna.
3. The Commissioner, Darbhanga Division, Darbhanga
4. The District Magistrate, Madhubani.
5. The Deputy Development Commissioner, Madhubani.
6. The District Program / Welfare Officer, Madhubani.
7. The Child Development Project Officer, Pandaul, District- Madhubani.
8. The Mukhiya Gram Panchayat Pandaul West, Police Station- Pandaul, District- Madhubani.
9. Rekha Devi W/O Shri Sunil Kumar Pandey Resident Of Village- Laxmipur Kanuahi, Police Station- Pandaul, District- Madhubani.

... .. Respondent/s

with

Civil Writ Jurisdiction Case No. 23432 of 2012

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Rekha Devi W/O Sri Sunil Kumar Pandey Resident Of Village - Laxmipur
Kanuahi, P.O. and P.S. - Pandaul, District - Madhubani

... .. Petitioner/s

Versus

1. The State Of Bihar and Ors
2. The Principal Secretary, Welfare Department, Government Of Bihar, Patna
3. The Commissioner, Darbhanga Division, Darbhanga
4. The District Magistrate, District - Madhubani
5. The Child Development Project Officer, Block Pandaul, District - Madhubani
6. The Mukhia, Gram Panchayat, Pandaul West, P.S. - Pandaul, District – Madhubani.
7. Satyabhama Devi, W/O Shri Ram Vinod Pandey, Resident of Village- Laxmipur Kanuahi, Police Station- Pandaul, District- Madhubani.

... .. Respondent/s

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Appearance :

(In Civil Writ Jurisdiction Case No. 16571 of 2012)

For the Petitioner/s : Mr.Kalyan Shankar, Adv.

Mr. Chandan Kumar, Adv.

For the State : Mr. Mujtabaul Haque, GP12

Mr. Vasant Vikas, AC to GP12

For the Resp. No.8 : Mr. Krishna Chandra Jha, Adv.

For the Resp. No.9 : Mr. Bimal Kumar Jha, Adv.

(In Civil Writ Jurisdiction Case No. 23432 of 2012)

For the Petitioner/s : Mr.Bimal Kumar Jha, Adv.

For the State : Mr.Khurshid Alam, AAG12

For the Mukhia : Mr. Krishna Chandra Jha, Adv.

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY
ORAL JUDGMENT



Date : 20-02-2019

Heard learned counsel for the parties.

With the consent of the parties, both the writ applications are being disposed of by this common order as both the petitioners are challenging the common order that has been passed by the Collector as well as by the Commissioner.

The matter relates to appointment of Anganwari Sevika of Anganwari Center No.2 in the village Laxmipur (Kanuahi), Block Pandaul, Panchayat Pandaul (West), Madhubani.

On the basis of notice, this petitioner and Rekha Devi, who is respondent no.9 in C.W.J.C. No. 16571 of 2012 is the petitioner in C.W.J.C. No. 23432 of 2012, they have made their claim for selection as Anganwari Sevika.

A general meeting was called on 18.12.2003 for the purpose of selection of Anganwari Sevika/Sahaika and, after proper scrutiny, Satyabhama Devi was appointed vide Memo No. 429 dated 12.4.2004. She was called for training for induction course which she completed, was awarded certificate vide letter no. 208/2004-05 dated 4.8.2004. She was also sent for Bio-training course for the year 2005-06 which she successfully completed and certificate no. 62/2005-06 dated 2.6.2005 was issued.

In the meantime, Rekha Devi filed C.W.J.C. No. 10499 of 2006 challenging the appointment of the petitioner which was



disposed of on 27.11.2007 with a direction to the District Magistrate, Madhubani to look into the matter, whereafter, Rekha Devi represented to the District Magistrate, Madhubani who, after hearing the parties, canceled the appointment of the petitioner with an observation that she does not belong to majority community of the locality of the center. A survey for the purpose of mapping was made by the C.D.P.O., Madhubani of that area and it was found that Bhumihar Brahmin caste was in majority and the same was forwarded to the District Programme Officer, Madhubani vide letter no. 172 dated 20.6.2008.

Again the petitioner as well as Rekha Devi approached to the District Magistrate, Madhubani for reconsideration of the matter and the matter was reconsidered by the District Magistrate, Madhubani who recalled the previous order dated 17.4.2008 by which the appointment of the petitioner was canceled which led to reinstatement of Satyabhama Devi to her place and the same was communicated to the petitioner and others vide Memo No. 217 dated 7.7.2008. In the meantime, Rekha Devi filed a complaint before the Commissioner, Darbhanga raising a plea that Satyabhama Devi does not belong to the B.P.L. category as she is not the beneficiary, hence, she cannot be appointed as Anganwari Sevika but, without issuance of notice to Satyabhama Devi, the



entire matter was remanded back to the District Magistrate for fresh consideration vide Memo No. 1663 dated 11.12.2008 but, in the meantime, the petitioner was sent for refresher course training at Women-Child-Welfare Council, Madhubani for the year 2008-09 and, accordingly, she was issued certificate vide letter no. 352/2008-09 dated 3.1.2009. The C.D.P.O., Madhubani sent a report vide Memo No. 82 dated 23.3.2009 after verification of various Anganwari Centers. The District Magistrate, Madhubani vide order dated 28.5.2009 recorded that the name of Rekha Devi who is in the list of Read Card Holder, fit for selection but, approved the Memo No. 217 dated 7.7.2009, thereby granted approval of selection of Satyabhama Devi. Satyabhama Devi filed an application dated 27.7.2009, wherein, it has been mentioned that in place of Satyabhama Devi, it has been wrongly typed as Rekha Devi and requires correction and, repeatedly, she filed another application dated 27.8.2009 but, no correction was made. The husband of Rekha Devi made complaint against the order of Collector before the Commissioner, Darbhanga who vide order dated 19.6.2009 recorded objection of Rekha Devi that she is below the poverty line, holding Red Card and it was directed to keep her name in the select list whereas approved the letter contained in Memo No. 217 dated 7.7.2009, wherein, it has been



mentioned that the appointment of Satyabhama Devi was correct but, in the upper part, it has been said that Rekha Devi should have been appointed in place of Satyabhama Devi. The matter was remanded back by the Commissioner for re-visit whereafter the Collector, in spite of deciding the issue between the parties, has given the break-up of the caste de-hors the order of Commissioner and passed the order in different matrix and recorded as दुसाध 310, हलुवाई—105, अमात—360, ठाकुर (नाई)— 53, बढई—06 एवं भूमिहार—470 अर्थात् अनुजा— 310, पिछड़ी जाति/अत्यंत पिछड़ी जाति— 524 एवं सामान्य (भूमिहार) 470 which was challenged by both the petitioners that as per circular, Most Backward Caste and Backward Caste have been classified in different heads and both cannot be clubbed together to show majority caste and, on that account, the Collector, Madhubani has canceled the selection of Satyabhama Devi and directed for fresh selection. The same was challenged before the Commissioner who affirmed the order passed by the Collector vide order dated 8.5.2012 holding that the Aam Sabha was convened by the Child Development Project Officer, Madhubani whereas as per instruction dated 10.12.2003, the Aam Sabha was to be convened under the Chairmanship of Mukhia. So, the entire selection process itself is bad, approved the order of the Collector, and directed for a fresh selection of Anganwari Sevika.



Learned counsel for the petitioner submits that the Commission has wrongly applied the circular having stated that the circular dated 10.12.2003 will not be applicable as this circular has been enforced after the notice published for recruitment. It has further been said that this circular was never communicated to the Mukhia which has been accepted by the State in its counter affidavit. In both ways, the circular dated 10.12.2003 is not applicable to the selection of Anganwari Sevika and the Commissioner has misdirected himself and wrongly held that the selection has wrongly under the chairmanship of C.D.P.O., Madhubani. This part is not being challenged by the learned counsel appearing on behalf of Rekha Devi and, at the same time, counsel for Rekha Devi also says that this issue was never in consideration at any stage and the Commissioner has taken a different stand, that too of Collector, Madhubani and affirmed the order of the Collector. It has been submitted by both the counsels that the order of Collector suffers from illegality in the sense that he has clubbed the B.C. community and M.B.C. category whereas, as per circular, the break-up of strength of caste is to be ascertained in the following manner as (a) SC cum ST, (b) M.B.C., (c) B.C., (d) Minority Community and (e) General Community and the calculation of the caste is required to be made as per the break-



up mentioned herein above, recruitment is to be made from the majority caste. In such view of the matter, the order of the Collector, Madhubani with regard to the assessment of caste configuration suffers from illegality as well as the order of the Commissioner, Darbhanga also illegal in the sense that he has applied the circular which was never communicated nor it was in force at the time of notice for selection of Anganwari Sevika.

In that view of the matter, the order of Commissioner as well as the order of passed by Collector of both the cases are quashed. The matter is remanded back to the Child Development Project Officer, Madhubani who will make proper survey of the caste as has been explained herein above and the meeting of the Aam Sabha will be called by the C.D.P.O. under the Chairmanship of Mukhia and the C.D.P.O. will also act as an observer to see that proper selection process is conducted and appropriate person is selected as Anganwari Sevika and Sahaika.

With the aforementioned observation and direction, this writ application stands allowed to the extent indicated above.

(Shivaji Pandey, J)

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AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	27.02.2019
Transmission Date	

