

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.12981 of 2019

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Mamta Kumari, aged about 22 years, female, Wife of Chunnu Purve, R/o Village-Parari, Ward No. 9, Mirjapur Panchayat, Block-Dumra, P.S. and District-Sitamarhi.

... .. Petitioner/s

Versus

1. The State of Bihar through Secretary, Child Development and Social Welfare Department, Government of Bihar, Patna.
2. The Director, Integrate Child Development and Social Welfare Department, Indra Bhawan, Government of Bihar, Patna.
3. The District Magistrate, Sitamarhi, District-Sitamarhi.
4. The District Program Officer, Sitamarhi, District-Sitamarhi.
5. The Child Development Project Officer, Dumra.
6. The Mahila Super Wiser, Child Development Project, Dumra Rural, District-Sitamarhi.
7. The Mukhiya, Gram Panchayat, Mirjapur, Block-Dumra, District-Sitamarhi.
8. Shivani Kumara, W/o Pramod Mahto, R/o Village-Pamra, Parri Tola, Ward No. 9, P.S. Dumra, District-Sitamarhi.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Birendra Kumar, Adv.

For the Respondent/s : Mr. Abhishek Singh, AC to GA-7

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CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR

ORAL JUDGMENT

Date : 23-07-2019

A supplementary affidavit has been filed during
the course of the argument. Let it be taken on record.



2. Heard Mr. Birendra Kumar, the learned Advocate for the petitioner and Mr. Abhishek Singh, learned AC to GA-7.

3. The petitioner has challenged the order dated 10.01.2019, contained in Memo No. 220, passed by the District Programme Officer, Sitamarhi, whereby her appointment as Aanganbari Sevika has been cancelled as well as the order dated 07.03.2019 passed by the District Magistrate, Sitamahri in Aanganbari Appeal Case No. 22 of 2019, whereby the order of the District Programme Officer has been affirmed and upheld.

4. It appears that the petitioner was ranked first in the merit list after giving weightage of 5% to her for her physically disability by more than 40% in accordance with the Rules of 2016 concerning the appointment and service conditions of Aanganbari Sevikas an Sahayikas, 5% weightage was given to the petitioner for her audio-deficiency. Later, on being informed that the petitioner did not have 40% deficiency with respect to her audio faculty, she was put to a further medical test before a Medical



Board, which found that the petitioner has no hearing problems. The deficiency was not found to be more than 40%. Thus, the petitioner was not entitled for 5% weightage. In that view of the matter, her position did not remain first amongst the list of candidates selected from amongst whom the selection for Aanganbari Sevikas and Sahayikas had to be made. Consequently, private respondent No. 8 was directed to be appointed.

5. It further appears from the records that the petitioner has 63.60 marks in matriculation and was marked 68% because of 5% weightage given to her. Private respondent No. 8 has 67.12% marks in matriculation. If 5% weightage is not given to the petitioner, private respondent No. 8 would naturally be the candidate with the maximum marks. It is for this reason that the appointment of the petitioner has been cancelled and in her place, private respondent No. 8 has been engaged/appointed.

6. The learned counsel for the petitioner has raised a grievance that without any complaint, the petitioner was put to re-medical test.



7. There is no necessity of any complaint for putting a person to medical examination if there creeps any doubt with respect to the genuineness of the claim of being physically challenged.

8. The aforesaid grounds do not persuade the Court for differing with the order of the District Programme Officer, Sitamari as also the District Magistrate, Sitamarhi in appeal.

9. For the aforesaid reasons, this Court does not wish to interfere with the orders impugned in the present petition.

10. The petition is dismissed.

(Ashutosh Kumar, J)

Praveen-II/-

AFR/NAFR	NAFR
CAV DATE	N/A
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