

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4065 of 2018

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Anju Kumari @ Anju Devi W/o Satish Paswan, Resident of Village-
Bahadurdih, Panchayat Dulare, P.O.- Baluganj, Block- Deo, P.S. Dhibra,
District- Aurangabad Bihar. Petitioner/s

Versus

1. The State Of Bihar through the Principal Secretary, Social Welfare Department, Govt. of Bihar, Patna.
2. The Principal Secretary, Social Welfare Department, Government of Bihar, Patna.
3. The District Magistrate-cum-Collector, Aurangabad, Bihar.
4. The District Programme Officer, Aurangabad.
5. The Child Development Project Officer, Deo, Block- Deo, District- Aurangabad, Bihar.
6. The Chairman, Member of Ward, Ward No.-08 Panchayat- Dulare, Block- Deo, District- Aurangabad, Biha
7. Sarswati Kumari (Sevika), W/o Ramashish Yadav, R/o Village- Karma Tole Bahadurdih, Centre- Lilji Ward No. 08, Panchayat- Dulare, Block- Deo, P.O.- Baluganj, P.S.- Dhibra, District- Aurangabad, Bihar.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Amarendra Kumar Singh, Advocate
For the State	:	Mr.Gyan Prakash Ojha -GA7
For Respondent No.7	:	Mr. Abhishek Kumar Singh, Advocate

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY
ORAL JUDGMENT

Date : 26-07-2019

Heard the parties.

In the present case, the petitioner is challenging the order dated 8.01.2018 passed by the Collector-cum-District Magistrate, Aurangabad in Appeal No.57 of 2016, whereby and whereunder he has rejected the appeal and affirmed the order dated 5.05.2016 passed in Aanganwari Sevika/Sahayika Appeal Case No.3/2016 by the District Programme Officer, Aurangabad and both of them have refused to accede the prayer made by the petitioner, as the petitioner claimed that she has wrongly been deprived of selection as Aanganwari Sevika though she belongs to



scheduled caste candidate, which is a dominant caste in the society, illegally deprived on the ground of her grandfather-in-law is Chaukidar being a government servant.

The matter relates to appointment with respect to Aanganwari Sevika in Centre Code No.124, Block-Deo, District-Aurangabad. An advertisement vide Advertisement No.1 of 2013 was published through Memo No.95 dated 15.04.2015 in which the petitioner and others applied. One Namita Paswan had secured the highest marks, but she is resident of Jharkhand, whereas, the petitioner is the second in merit and respondent no.7 Saraswati Kumari is the third in merit. The Aam Sabha was conducted in which candidature of Namita Paswan was not considered on the ground that she belongs to Jharkhand State. The petitioner was the only candidate to be considered from among the majority community, but she was deprived of being selected as Aanganwari Sevika on account of fact that her grandfather-in-law was at the relevant time employed as Chaukidar and ultimately, respondent no.7, namely, Saraswati Kumari, who was third position in the merit list has been appointed as Aaganwari Sevika.

Matrix of the issue in the present case is only to the extent that whether the petitioner can be deprived of her appointment on account of the fact that her grandfather-in-law was



working as Chaukidar, otherwise, the petitioner, who was in second in merit list as well as she is from the majority community as the mapping register shows scheduled caste population, is the majority caste. Only in the event of absence of suitable person from the majority caste, would make entitled to member from the backward caste for appointment as Aangawari Sevika.

To resolve this dispute, it will be appropriate to consider the Guidelines of 2011 as this matter relates to the year 2013. Clause 4 of the Guidelines deals with for recruitment of Aanganwari Sevika and its qualification. Clause 4.2 provides that the majority caste will have a precedence in the matter of selection of Aanganwari Sevika provided the candidate possess the minimum educational qualification and satisfy other conditions. If qualified person from the majority community is not available, in such event, first the option will go to the scheduled caste followed by scheduled tribe, whereafter most backward class followed by backward class and 5th minority community and last from the general category. Clause 4.8 prescribes that relative will not be selected as Aanganwari Sevika. The relation of representative of people has been eliminated from consideration for the post of Aanganwari Sevika. The relative has been defined as wife, daughter-in-law and other relations. The other relation has been



defined as mother, adopted/step son or daughter, Bhabhi means wife of elder and younger brother and Clause 4.9 prescribes that the relative of Government servant posted in the same Panchayat, Blcok, Circle, Sub-Division, posted in Central Government and the State Government, semi Government Institution employee has been excluded from consideration, relative means his wife, daughter-in-law or other relations. Other relations have been defined under the identical manner. The rider has been attached that if the earning of Government Servant is Rs.6,000/- or below, the elimination clause 4 (9) will not apply.

In the present case, the thrust has been given that the petitioner has wrongly been deprived for consideration from the zone of appointment as Aanganwari Sevika as Clause 4.9 is very much clear that grandfather-in-law has not been included as a relation of a candidate, which is very much clear that only daughter-in-law has been excluded meaning thereby the wife of son and nowhere it has been envisaged to eliminate the consideration of wife of grand son. Clause 4.9 dealing with the elimination from consideration zone of the Aanganwari Sevika, it has to be construed constrictly and strictly and it cannot be expanded to mean not mentioned elimination. In the rule of interpretation if the words are plain, violence cannot be done to the



word, and it will be given literal interpretation without any deviation and enlargement.

In such view of the matter, this Court is of the view that even if the grandfather-in-law is/was an employee of government in the present case that will not be excluded the right for consideration for appointment as Aanganwari Sevika and, as such, the District Programme Officer as well as the Collector has misconstrued the Clause 4.9 and wrongly been refused to appoint the petitioner on the ground of daughter-in-law of grandfather-in-law, who is/was a government servant. So when it is very much clear from Clause 4.9, it cannot be accepted and extended as it has to be given a literal meaning of word that will serve the purpose of percolating the benefit to the lower strata of the society and they should not remain deprived of the benefit emanating under the Scheme.

Accordingly, the order of the Collector-cum-District Magistrate dated 08.01.2018 and the order dated 05.05.2016 are set aside and a direction is given to consider the case of the petitioner for appointment as Aanganwari Sevika.

The Authority must ensure the appointment of the petitioner as Aanganwari Sevika within a period of three months from the date of receipt/production of a copy of this order.



With the aforesaid observations and directions, this writ application stands allowed.

(Shivaji Pandey, J)

V.K.Pandey/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	30.07.2019
Transmission Date	NA

