

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8413 of 2018

1. Lalima Kumari, wife of Shri Narendra Kumar Deo, resident of Vishwanath Nagar, Park Road, Gali No. 7, Ward No. 23, P.S. - Town, District - Begusarai.
2. Priya Singh, daughter of Ram Balak Singh, resident of Village - Suja, Ward no. 13, P.S. - Muffasil, District - Begusarai.
3. Aarti Sinha, wife of Rupesh Kumar Resident of Mohalla - Vishanpur, P.S. - Town, District - Begusarai.
4. Savita Kumari, wife of Rajesh Kumar Chaudhary Resident of Village - Gadhara, P.S. - Barauni, District - Begusarai.
5. Kumari Rashmi, wife of Durgesh Nandan Kumar resident of Village Chatti Road, P.S. - Town, District - Begusarai.
6. Usha Kumari daughter of Sita Ram Sharma resident of Village - Shiv Nagar Balia, P.S. - Balia, District Begusarai.
7. Dazy Gandhi daughter of Ram Bahadur Prasad Yadav Resident of Village - Danauli Phulwaria, P.S. - Ballia, District - Begusarai.
8. Chetna Kumari daughter of Mithilesh Kumar Poddar resident of Choti Balia, P.S. - Balia, District Begusarai.
9. Hemlata Kumari wife of Lalan Kumar Resident of Village - Teghra Bazar, Main Road, P.S. - Teghra.
10. Kumari Deepa wife of Kumud Ranjan resident of Village - Hardia Chilmil Rajaura, P.S. Muffasil, District Begusarai.
11. Manisa Kumari daughter of Sanjay Kumar Resident of Village - Kurha, P.S. - Sahebpur Kamal, Distt - Begusarai.
12. Upasna Kumari daughter of Anil Chaudhary resident of Village - Chhitraur Chak Punarvas, P.S. - Matihani, District - Begusarai.
13. Rina Kumari daughter of Ram Bahadur Raut resident of village Dharampur Gadhpura, P.S. Gadhpura, District Begusarai.
14. Arti Kumari wife of Anil Kumar resident of village - Arvia, P.S. Bachhwara, District Begusarai.
15. Suman Kumari wife of Priya Ranjan Kumar resident of Village - Malhipur, Saligarmi P.S. Sahebpur Kamal, District Begusarai.
16. Kamini daughter of Late Dinesh Chandra Prasad Resident of Village - Bagha Suhird Nagar, P.S. - Lohiya Nagar, District - Begusarai.
17. Shruti Richa wife of Nitesh Kumar Resident of Mohalla Chitragupta Nagar Pokharia, PS - Town, Distt Begusarai.
18. Mamta Kumari daughter of Manohar Mani Singh resident of Village - Chhitrar, P.S. Matihani, Dist - Begusarai.
19. Lalita Kumari daughter of Sukhdev Das resident of Mohalla - Patel Chowk, P.S. - Town, District - Begusarai.
20. Nitu Kumari daughter of Mahendra Singh resident of Village Rajaura, Ward No. 6, Pachhiyari Tola, P.S. - Muffasil, District - Begusarai.



21. Rashmi Rani daughter of Ajay Kumar Mahto resident of Village - Paharpur, P.S. - Balia, Dist - Begusarai.
22. Smita Kumari daughter of Ramendra Kumar Resident of Village - Pidhauri, P.S. - Teghra, Dist - Begusarai.
23. Sunita Kumari daughter of Late Jay Ram Singh resident of Village - Bihat, Makashpur Sanjay Service, P.S. - Barauni, Distt - Begusarai.
24. Kumkum Kumari wife of Arvind Kumar resident of Mohalla - Ashok Nagar, Pokharia, P.S. - Town, Distt Begusarai.
25. Kiran Kumari daughter of Ram Kumar Thakur resident of Qr. No. E/273 B.R.T.S. P.S. Barauni, Dist - Begusarai.
26. Rina Bharti wife of Dhiraj Kumar resident of Mohalla - Chitragupta Nagar, Pokhariya, P.S. - Town, Distt - Begusarai.
27. Ranjeeta Kumari daughter of Ram Prit Mahto resident of Village - Kumharso Garhpura, Distt Begusarai.
28. Lila Kumari wife of Suman Kumar resident of Village Rudaubi, P.S. Bachhwara, Distt - Begusarai.
29. Ruby Kumari daughter of Shambhu Mahto resident of Village - Rachiyahi, P.S. Singhaul, Distt Begusarai.
30. Raj Lakshmi daughter of Bal Mukund Singh resident of Village - Malpur, P.S. Khodabandpur, Dist - Begusarai.
31. Reena Kumari wife of Pankaj Kumar Resident of Village - Mehda Shahpur, Sripur, P.S. Cheriabariarpur, District Begusarai.
32. Babita kumari wife of Shyam Nandan Singh Resident of Village - Krishnapur Ward No. 19, Ratanpur, P.S. Town, Distt - Begusarai.
33. Suman Kumari wife of Jagannath Sahu Resident of Village - Sokhara - 2, Kalambagh, P.S. - Barauni, Distt - Begusarai.
34. Parmila Sinha, wife of Dharmendra Kumar Patel, Resident of Village - Amarpur, P.S. - Barauni, Distt - Begusarai.

... .. Petitioners

Versus

1. The State of Bihar
2. Director, Directorate of Integrated Child Development Scheme, Bihar, Patna.
3. Divisional Commissioner, Munger Division, Munger.
4. District Magistrate, Begusarai.
5. Deputy Development Commissioner, Begusarai.
6. District Programme Officer, Begusarai.
7. Smt. Ankita Parihar, wife of Arun Kumar Singh resident of Village Mogalsarai, P.S. Sahebpur Kamal, District Begusarai.

... .. Respondents

with



Civil Writ Jurisdiction Case No. 8407 of 2018

1. Hemlata, W/o - Shubhesh Pandey, R/o Vill. Rajapur, Ulaw P.S. - Muffasil Singhaul, Dist. - Begusarai L.S. Barauni.
2. Sanju Kumari, W/o Sanjay Kumar, R/o Vill - Sadanandpur, P.S. Ballia, Dist - Begusarai L.S. Chariyabariyarpur.
3. Poonam Kumari, W/o Sanjeev Kumar Chaudhary, R/o Vill - Bagwara, P.S. Muffasil, Dist - Begusarai L.S. Barauni.

... .. Petitioners

Versus

1. The State of Bihar
2. The Director, Integrated Child Development Scheme ICDS, Govt. of Bihar, Patna.
3. The Commissioner, Munger Division, Munger.
4. The District Magistrate, Begusarai cum Member District Level Selection Committee, Begusarai.
5. The District Development Commissioner, Begusarai cum Member District Level Selection Committee, Beg
6. The District Program Officer ICDS Begusarai cum Member District Level Selection Committee, Begusar
7. The Treasury Officer, Begusarai.
8. The S.D.O. Begusarai/Balia.
9. The Child Development Project Officer Barauni/Balia Block, Begusarai.
10. Smt. Ankita Parihar, wife of Arun Kumar Singh, resident of Village Mogalsarai, P.S. Sahebpur Kamal, District Begusarai.

... .. Respondents

with

Civil Writ Jurisdiction Case No. 10155 of 2018

1. Bandana Priyadarshni, W/o Barajendra Prasad Yadav, R/o Vill.- Ballia, P.S.- Ballia, Dist.- Begusarai L.S.- Sahebpur Kamal.
2. Jyotshna Manjul, W/o Kishore Chandra, R/o Vill.- Rahua, P.S.- Sahebpur Kamal, Dist.- Begusarai, L.S.- Sahebpur Kamal.
3. Sharda Kumari, W/o Ram Lakhan Paswan, R/o Vill.- Sondip- Bahdarpur, P.S.- Begusarai Muffasil, Dist.- Begusarai L.S.- Cheriabariyarpur.
4. Archana, D/o Deoki Nandan Prasad, R/o Teghra Ward No. - 20, P.S.- Teghra, Dist.- Begusarai L.S.- Virpur.

... .. Petitioners

Versus

1. The State of Bihar
2. The Director, Integrated Child Development Scheme ICDS, Govt. of Bihar,



Patna.

3. The Commissioner, Munger Region, Munger.
4. The District Magistrate, Begusarai cum member District Level Selection Committee, Begusarai.
5. The District Development Commissioner, Begusarai cum Member District Level Selection Committee, Beg
6. The District Program officer ICDS Begusarai cum Member District Level Selection Committee, Begusar
7. The Treasury Officer, Begusarai.
8. The S.D.O. Begusarai/Ballia.
9. The Child Development Project Officer Barauni/Ballia Block, Begusarai.
10. Ankita Parihar, W/o Arun Kumar Singh, R/o Vill.- Mogalsarai, P.S.- Sahebpur Kamal, Dist.- Begusarai.

... .. Respondents

Appearance :

(In Civil Writ Jurisdiction Case No. 8413 of 2018)

For the Petitioner/s : Mr. Abhinav Srivastava-Advocate

Mr. Randhir Kumar-Advocate

For the State : Mr. Gyan Shankar-AC to GP-2

For the Respondent No.7: Mr. Rakesh Kumar-Advocate

(In Civil Writ Jurisdiction Case No. 8407 of 2018)

For the Petitioner/s : Mr. Shubhesh Pandey-Advocate

For the State : Mr. Gyan Shankar-AC to GP-2

For Pvt. Respondent : Mr. Rakesh Kumar-Advocate

(In Civil Writ Jurisdiction Case No. 10155 of 2018)

For the Petitioner/s : Mr. Satish Chandra Mishra-Advocate

Mr. Shubhesh Pandey-Advocate

For the State : AC to SC-10

For the Respondents : Mr. Rakesh Kumar-Advocate

CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL JUDGMENT

02-09-2019

An order dated 13.04.2018 issued by the Collectorate,

Begusarai (ICDS Cell) under the joint signature of the District

Magistrate, the District Development Commissioner and the

District Programme Officer, Begusarai has been put to challenge

in all these three writ applications. For the reliefs, which

petitioners are seeking and the foundational facts for such reliefs



are almost identical in all the cases, they have heard together and are being disposed of by present common judgment and order.

2. It is evident from the impugned order that it has been issued in compliance of an order passed by the Divisional Commissioner, Munger in Misc. Service Appeal No.64 of 2012. The order passed by the Divisional Commissioner in Misc. Service Appeal No.64 of 2012 was not put to challenge specifically in compliance of which, the impugned order has been passed. I. A. No.4901 of 2018 has, therefore, been filed in C.W.J.C. No. 8413 of 2018 seeking amendment in the relief portion of the writ application to assail the said order of the Divisional Commissioner dated 04.01.2014 in Misc. Service Appeal No.64 of 2012. The appeal was filed by the Respondent No.7. Considering the facts and circumstances, I.A. No.4901 of 2018 is allowed. The petitioners are permitted to question the correctness of the order dated 04.01.2014 passed in Misc. Service Appeal No.64 of 2012. The facts pleaded in I.A. No.4901 of 2018 shall form part of the pleadings of the main writ application.

3. Heard learned counsel for the parties.

4. There are certain facts, which are not at all in



dispute. 68 Posts of Lady Supervisor under Integrated Child Development Scheme (I.C.D.S.) were advertised on 28.06.2010. The petitioners and others were applicants pursuant to the said advertisement. After having undertaken process of selection, apparently based on the merit of respective candidates, on the basis of their respective educational qualifications, a merit list was prepared on 02.08.2011. Certain objections were raised thereafter over the manner in which the merit list dated 02.08.2011 was prepared. The objections were found to be sustainable. Respective merits of the candidates were re-visited and a revised provisional list for appointment against the post of Lady Supervisor was published on 25.07.2012. This is not in dispute that in the subsequent merit list dated 25.07.2012, names of the petitioners figured, with their merit positions much above the merit position of Respondent No.7.

5. It transpires from the pleadings on the record that in the merit list prepared on 02.08.2011, Respondent No.7 was placed at higher position (At Serial No.12). Her position, however, went down to 150 in the subsequent select list dated 25.07.2012. Respondent No.7 questioned the correctness of the selection list published on 25.07.2012 by filing a writ application before this Court giving a rise to C.W.J.C. No.15277



of 2012. The writ application was disposed of by an order dated 08.10.2012 with the following order:-

“Upon hearing learned counsel for the parties, this writ petition is disposed of with a direction that petitioner may file appeal before the Commissioner concerned which shall be decided by him within one month from the date of receipt/ production of a certified copy of this order.”

6. The persons, who were selected, based on the selection list panel published on 25.07.2012, were appointed on 28.08.2012 and 16.10.2012. Respondent No.7 preferred an appeal before the Divisional Commissioner, Munger in the light of the observation of this Court in the order dated 08.10.2012 passed in C.W.J.C. No.15277 of 2012, giving rise to Misc. Service Appeal No.64 of 2012.

7. It is not in dispute the petitioners, who were selected on the basis of 25.07.2012 panel, were not impleaded parties in the said Misc. Service Appeal No.64 of 2012. The Divisional Commissioner, Munger by the order dated 04.01.2014, allowed the appeal of the Respondent No.7, cancelling the revised panel dated 25.07.2012, with a direction to make appointments on the basis of the selection list published on 02.08.2011. The Divisional Commissioner noticed the merit



position of respondent no.7 at Serial No.12 in the select list dated 02.08.2011 and accordingly, directed for issuance of an appointment letter in her favour. The Collector, Begusarai filed a Review Application before the Divisional Commissioner, Munger seeking review of the said order dated 04.01.2014, which came to be dismissed by an order dated 25.01.2017 in the background of the fact that the Divisional Commissioner did not have any power of review of his own order. It is in this background that the impugned order dated 13.04.2018 came to be issued by the Collectorate, Begusarai, whereby the engagement of these petitioners as Lady Supervisors has been terminated.

8. My attention has been drawn to the specific averments made in Paragraphs-35, 36, 37 and 41 of the writ application, so as to make out a case that the petitioners, who were selected on the basis of 25.07.2012 panel, did not have any opportunity to defend their selection/ appointment before the Divisional Commissioner, Munger in Misc. Service Appeal Case No.64 of 2012, inasmuch as they were never noticed nor they were impleaded as party respondents in the said appeal. It is the specific case of the petitioners that they did not have any knowledge about any proceeding, before the respondents issued



the impugned order dated 13.04.2018, terminating their services.

9. It has been submitted on behalf of the State of Bihar that the revised panel was prepared strictly in accordance with the terms of advertisement after entertaining objections raised by some of the candidates particularly in the light of a clarification issued by the I.C.D.S. Directorate, Bihar dated 10.01.2012, a copy of which has been brought on record by way of Annexure-D to the counter-affidavit.

10. When these cases were taken up on 25.03.2019, the Court had desired the State-Respondents to respond to specific averments made in Paragraphs-35, 36, 37 and 41 of the writ application. Though, a supplementary counter-affidavit has been filed, there is no specific denial of the averments made in the said paragraphs.

11. Respondent No.7 has entered appearance by filing vakalatnama. No counter-affidavit has, however, been filed on her behalf. The averments made in Paragraphs-35, 36, 37 and 41, thus stand uncontroverted. The impugned order dated 04.01.2014 passed in Misc. Service Appeal Case No.64 of 2012 by the Divisional Commissioner, Munger, in such circumstance, in my view, has become vulnerable, having been passed in clear



breach of principles of natural justice. The said order is accordingly, set aside. All actions taken in pursuance of order dated 04.01.2014 are held to be illegal. The impugned order dated 13.04.2018 is set aside, accordingly. The consequence of quashing of the impugned order shall follow. All the three writ applications are allowed with the directions and observations above.

(Chakradhari Sharan Singh, J)

Vikash/-

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	02.10.2019
Transmission Date	02.10.2019

