

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4839 of 2015

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Smt. Shakuntala Kumari W/o Sri Naresh Kumar, Resident of Ward no.-11,
Panchayat-Baheri West, Village- Kumhiya, Police station- Baheri, District-
Darbhanga

... .. **Petitioner**

Versus

1. The State Of Bihar represented through the Commissioner cum Secretary,
Department of Social and Welfare, Government of Bihar, Patna
2. The Director, Directorate of Integrated Child Development Scheme, Bihar,
Patna.
3. The Deputy -Director Welfare, Darbhanga Division, Darbhanga.
4. The District Magistrate, Darbhanga.
5. The District Programme Officer, Darbhanga.
6. The Child Development Project Officer, Baheri, Darbhanga.
7. Reena Devi W/o Sri Birendra Kumar, Resident of Ward no.-11, Panchayat-
Baheri West, Village- Kumhiya, Police station- Baheri, District- Darbhanga.

... .. **Respondents**

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Appearance :

For the Petitioner	:	Mr. Ajay Kr. Thakur, Advocate Mr.Md.Imteyaz Ahmad, Advocate Mr. Shashank Shekhar & Udhav, Advocates
For the State	:	Mr. Shankar Kr. Thakur, AC to GP 27
For respondent no.7	:	Mr. Shashi Shekha Dwivedi, Senior Advocate Mr. Parth Gaurav, Advocate
For the Intervenor	:	Mr. Dileep Kr.Singh, Advocate Mr. Satyeshwar Prasad, Advocates

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CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

8 19-02-2019 Heard Mr. Ajay Kumar Thakur, learned counsel for

the petitioner, learned counsel for the State, Mr. Dwivedi,

learned Senior counsel for respondent no.7 and learned counsel

appearing for the intervenor Sapna Kumari.

Order of the Deputy Director, Welfare, Darbhanga
Division, Darbhanga (respondent no.3) passed in Appeal Case
No. 107 of 2014, whereby order dated 10.9.2014 of the District
Programme Officer (DPO), Darbhanga (respondent no.5) has
been set aside, is under challenge in the instant proceedings.
Appeal was preferred by respondent no.7 (Reena Devi)
challenging order of the DPO, Darbhanga whereby her claim for



consideration for appointment on basis of desertion certificate dated 10.12.2011 was rejected by the DPO, Darbhanga.

In the order of the DPO, Darbhanga dated 10.9.2014 relevant dates have been taken note of. It has specifically been recorded that the advertisement for selection in question was issued on 4.11.2011. Last date for submission of application was 22.7.2013 and the Aam Sabha was held on 19.8.2013. Desertion certificate as well as handicapped certificate of respondent no.7 was submitted on 12.8.2013. Since certificates have been submitted after the last date being 22.7.2013, claim of respondent no.7 was not found worthy of consideration by the DPO, Darbhanga. The same dates have been reiterated in the same sequence by the Appellate Authority, i.e., the Deputy Director, Welfare, Darbhanga Division, Darbhanga.

Findings on the basis of facts are concurrent, however surprisingly conclusion of the Deputy Director, Welfare is different than that which have been arrived at by the DPO, Darbhanga. The Deputy Director, Welfare has set aside order of the DPO, Darbhanga and a direction has been issued to appoint respondent no.7 as Anganbari Sevika, who was third empanelled candidate, in place of the petitioner.

Mr. Shashi Shekhar Dwivedi, learned Senior counsel



appearing for respondent no.7 submits that since the amended Clause 5.5 of the Anganwari Sevika/Sahaika Guidelines provides that certificates were to be submitted up to one week before the Aam Sabha, the certificates submitted by respondent no.7 were to be considered by the authorities as having been submitted within time.

The argument on the basis of 2012 amendment in the Anganwari Sevika/Sahaika Guidelines which has come into force on 3.2.2012 cannot be disputed. However, it is to be observed that the advertisement for selection in question had been issued much prior to coming into force of the 2012 amended guidelines. Advertisement is dated 4.11.2011 and clearly stipulates submission of certificates by 22.7.2013.

It is a trite law that once process of selection has been initiated rules of the game are to conform to stipulations contained in the advertisement under which selection is being done. In the instant case, advertisement is of 2011, amended guidelines has come into force in February, 2012 as such the amended provision of the guidelines cannot be made the basis of granting benefits to respondent no.7 who admittedly has submitted the aforesaid certificates on 12.8.2013, belatedly and in violation of the terms of the advertisement.



One Interlocutory Application No. 6932 of 2015 has been filed by the second impaneled candidate, the intervenor Sapna Kumari.

Learned counsel for the intervenor is same as learned counsel for the writ petitioner in C.W.J.C.No. 3980 of 2017 which has been filed by the second impaneled candidate.

It is submitted by learned counsel for the intervenor that the intervenor would be pressing her claim in the writ petition arising out of C.W.J.C.No. 3980 of 2017.

I.A.No.6932 of 2017 stands disposed of in view of the aforesaid position.

In view of the aforesaid position, order of the Deputy Director, Welfare dated 26.2.2015 is unsustainable in law and the same is set aside. Consequences of setting aside the appellate order as contemplated in law should be followed by the authorities concerned.

Writ petition is allowed.

(Madhuresh Prasad, J)

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