

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.729 of 2015

In

Civil Writ Jurisdiction Case No.2226 of 2015

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Rajda Parween W/o Sheikh Farman. Resident of village - Sonmani, P.S.-
Sindhiya, District – Samastipur.

... .. Appellant

Versus

1. The State Of Bihar through the Chief Secretary, Govt. of Bihar, Patna
2. The Principal Secretary, Department of Social Welfare, Govt. of Bihar, Patna.
3. The Director, Social Welfare Development, I.C.D.S. Directorate, Govt. of Bihar, Patna.
4. The Deputy Director, Department of Welfare, Darbhanga Division, Darbhanga.
5. The District Magistrate, Samastipur.
6. The District Programme Officer, Samastipur.
7. The Block Development Officer, Sindhiya, Samastipur.
8. The Child Development Officer, Sindhiya, Samastipur.
9. The Panchayat Secretary/Gram Panchayat Raj, Mahra, Samastipur.
10. The Mukhiya Gram Panchayat Raj, Mahra, Samastipur.
11. Sabana Parween. W/o Md. Shahid. Resident of village - Somani, P.S.- Sindhiya, District – Samastipur.

... .. Respondents

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Appearance :

For the Appellant/s	:	Mr. Shri Prakash Srivastava, Adv. Ms. Anu Priyadarshi, Adv.
For the Respondent/s	:	Mr. Manoj Kr. Ambastha, SC26 Mr. Subodh Kumar, AC to SC26
For the respondent no.11 :	:	Mr. Amarendra Kumar, Adv. Mr. Vinay Kumar Mishra, Adv.

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

and

HONOURABLE MR. JUSTICE ARVIND SRIVASTAVA

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE JYOTI SARAN)

Date : 03-01-2019

Heard Mr. Shri Prakash Srivastava, learned Counsel
appearing for the appellant, Mr. Subodh Kumar, learned AC to SC
26 for the State and Mr. Amarendra Kumar, learned Counsel for
respondent no. 11.



This appeal arises from a judgment and order of this Court passed by the learned Single Judge dated 05.02.2015 in CWJC No. 2226/2015, whereby the writ petition has been dismissed.

Matter relates to appointment of Aaganwari Sevika for the Aaganwari Centre No. 15, Gram Panchayat Raj, Mahra in the District of Samastipur. It is not in dispute that following a selection process that was initiated for filling up of the post in question, a panel was prepared on 30.04.2012. The private respondent no. 11 was placed at serial no. 1 with an aggregate of 64.66% marks while the appellant-petitioner was at serial no. 2 with an aggregate of 51% marks. Despite the position, the private respondent no. 11 was not appointed because an allegation came forth that her mother-in-law was yet continuing as a Member of the Ward and thus she was disqualified to hold the post. A plea was taken by the private respondent that her mother-in-law had tendered her resignation which was accepted by the Panchayat Committee but of no avail and which forced her to move the appellate authority whose order is present at Annexure-13 to the writ petition, whereby the plea was accepted and order was issued for her appointment. This aggrieved the appellant who as the writ petitioner came before this Court in CWJC No. 2226/2015. The



learned Single Judge having noted the rival contentions has been pleased to dismiss the writ petition and hence, this appeal.

We have heard learned Counsel for the parties and have perused the records.

While there is no dispute regarding the status of the private respondent at the top of the merit list, the only issue which falls for consideration is whether or not the resignation of the mother-in-law was tendered at appropriate time and was accepted within the stipulated period. It is taking note of these circumstances that a Bench of this Court vide order passed on 24.01.2018 directed the District Programme Officer, Samastipur to examine the entire matter and report to this Court by filing an affidavit, following which a discussed counter affidavit is filed and paragraph 5 onwards of the affidavit would resolve the dispute because the tendering of resignation and its acceptance has been endorsed by the District Programme Officer on examination on record of the selection process and once this obstacle is crossed by the private respondent, then her position on the top of the merit list makes her eligible for appointment and that is what exactly the appellate authority has done by the order impugned which put to question before the learned Single Judge was not interfered with and even the persuasive argument of Mr. Srivastava, learned



Counsel appearing for the appellant-writ petitioner, does not invite
a different opinion.

The appeal is dismissed.

(Jyoti Saran, J)

(Arvind Srivastava, J)

Archana/
Surendra/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	28.01.2019
Transmission Date	NA

