

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11448 of 2012

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Punam Kumari W/O Birendra Kumar Resident Of Village - Hira Kanhauli,
P.S. - Paarsuani, District - Sitamarhi

... .. Petitioner/s

Versus

1. The State Of Bihar and Ors
2. The Commissioner-Cum-Secretary, Department Of Social Welfare, Bihar, Patna
3. The Director, Social Welfare Department, Bihar, Patna
4. The Commission, Tirhut Division, Muzaffarpur
5. The District Magistrate, Collector, Sitamarhi
6. The District Programme Officer, Sitamarhi
7. The District Welfare Officer, Sitamarhi
8. The Child Development Project Officer, Parsauni Block, District - Sitamarhi
9. Sarita Saroj Wife Of Anil Kumar Nirala Resident Of Village - Hira Kanhauli, P.S. - Paarsuani, District - Sitamarhi

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Tejendra Sinha, Advocate

For the Respondent/s : Mr. Abhoy Kumar Kashyap, A.C. to G.P. -18

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL JUDGMENT

Date : 21-12-2019

Heard learned counsel for the parties.

2. The petitioner has put to challenge an order dated 31.01.2012 passed in Service Appeal No. 202 of 2011 by the Divisional Commissioner, Tirhut Division, Muzaffarpur, whereby an appeal preferred by respondent No. 9 has been allowed and she has been held to be having better merit than the petitioner for appointment as *Anganbari Sevika*.

3. To cut short the matter, this appears to be an admitted fact that the petitioner was selected for the post earlier on



the basis that she had secured 466 marks in Madhyama Examination held by *Bihar Sanskrit Shiksha Board* and, accordingly, her percentage on the basis of total 700 marks was calculated as 66.57. The petitioner was accordingly placed at Sl. No. 2. The respondent No. 9 was placed below her with 64.7 per cent marks.

4. The Commissioner, in his order has noted that the petitioner had not secured 66.57 per cent marks rather there was mistake in calculation/determination of percentage of marks secured by him. He has accordingly set aside the order of the District Magistrate dated 26.8.2011 whereby the petitioner's claim was sustained.

5. Learned counsel appearing on behalf of the petitioner has submitted that the impugned order has been passed without giving the petitioner an opportunity of hearing.

6. The Court wanted to know from learned counsel, the manner, in which, the petitioner's percentage of marks was determined at 66.57 per cent. He has given the details on the basis of the petitioner's marks sheet and according to his own submission, the petitioner had secured 60, 66, 62, 51, 65, 72, 76 in seven papers and 44 in the extra paper. He admits that the petitioner had secured 452 out of 700. He has submitted that the



extra paper was to be excluded for the purpose of determination of percentage secured by a candidate.

7. It is apparent that if the extra paper is excluded, the petitioner would have been found to have secured 452 marks out of 700, based on which, her percentage would have been 64.56 per cent. Admittedly thus, the petitioner's percentage of marks out of 700 was less than respondent No. 9. What has been done in the present case is that after taking 30 marks from extra paper, 14 has been added to the aggregate of marks secured by the petitioner in other subjects and her percentage was determined. The procedure which was adopted for determination of the petitioner's percentage of marks out of 700 was apparently faulty. The Divisional Commissioner has rightly interfered with the order.

8. I do not find any requirement for this Court to interfere in view of the facts which have been noted above and are admitted.

9. This writ application is, accordingly, dismissed.

(Chakradhari Sharan Singh, J)

S.Ali/-

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