

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.19160 of 2019

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Meera Gauraw wife of Brajesh Kumar Gauraw resident of Village Bilashpur,
Ward No. 9, Center No. 216, Gram Panchayat Raj Bilashpur, P.S. and
Prakhand Bhagwanpur Hat, District Siwan.

... .. Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Social Welfare Department, Bihar, Patna.
2. The State of Bihar through the Directorate, Integrated Child Development Service I.C.D.S. Bihar, Patna.
3. The District Magistrate, Siwan.
4. The District Programme Officer ICDS, Siwan.
5. The Child Development Project Officer, Bhagwanpur Hat, District Siwan.
6. The Circle Officer, Bhagwanpur Hat, Siwan.
7. The Block Development Officer, Bhagwanpur Hat, District Siwan.
8. The Circle Office Masrakh District Saran at Chapra.
9. The Block Development Officer, Mashrakh, District Saran at Chapra.
10. The Supervisor under Gram Panchayat Raj Bilashpur Ward No. 09, Center No 216 Prakhand and P.S. Bhagwanpur Hat, District Siwan.
11. Rinki Kumari wife of Chanderket Kumar resident of Village Bilashpur, Sanjot P.S. Bhagwanpur Hat, District- Siwan.

... .. Respondents

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Appearance :

For the Petitioner	:	Mr.Ashok Kumar
For the Respondent State:		Mr. Rajesh Kumar, AC to GP-3
For Respondent No.11	:	Mr. Naresh Prasad

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL ORDER

4 14-11-2019 Heard learned counsel appearing on behalf of the

petitioner, the State of Bihar and the contesting private

respondent No.11.

Respondent No.11 has filed a counter affidavit, which

is there on record.

The matter relates to selection for the post of



Anganbari Sevika of Ward No.9, Centre No.216 of Gram Panchayat Raj Bilashpur in the district of Siwan. The petitioner and respondent No.11 were participants in the process of selection. It is the petitioner's case that respondent No.11 was wrongly selected by the *Aam Sabha* for the said post against which a miscellaneous case was filed by her before the District Programme Officer, Siwan, giving rise to Misc. Case No. 17/2015-16. The said Misc. Case No. 17/2015-16 was disposed of by the District Programme Officer by an order dated 05.01.2018, whereby, while rejecting the case of the petitioner for her selection, he had set aside the selection of respondent No.11 as illegal and, therefore, invalid. The District Programme Officer, by the said order dated 05.01.2018, directed for initiation of process of selection for the post in question afresh on the basis of a fresh advertisement. The said order of the District Programme Officer dated 05.01.2018 was assailed by respondent No.11, which has been allowed by the Collector vide his order dated 22.01.2019 passed in Anganwari Appeal No.378/2017-18, which is under challenge in the present writ application.

It is specific case of the petitioner that she was not impleaded as party in the appeal preferred by respondent No.11



before the Collector, Siwan, against the order of the District Programme Officer which was passed in a case filed by the petitioner. It is also specific case of the petitioner that she did not have any knowledge about the appeal proceeding pending before the Collector, Siwan, before he passed the impugned order inasmuch as no notice, in any manner whatsoever, was sent to her. In this background, it is the petitioner's case that the impugned order is in breach of the principles of natural justice.

In the counter affidavit filed on behalf of the contesting respondent No.11, there is no denial of the fact that the petitioner was not impleaded as party in the appeal preferred by respondent No.11. There is also no denial of the fact that the petitioner was not noticed in the appeal proceedings before the Collector, Siwan.

Learned counsel appearing on behalf of the respondent No.11 has, however, attempted to convince this Court that even on merits the petitioner has no case as she is not eligible for selection to the post in question.

Be that as it may, admittedly, the appeal was preferred by respondent No.11 against an order passed by the District Programme Officer on an application filed by the petitioner. The petitioner was claiming her better rights over respondent No.11



before the District Programme Officer. It is true that she did not choose to prefer an appeal against the order of the District Programme Officer. The fact remains that she had accepted the order of the District Programme Officer, whereby a direction was issued for initiation of the selection proceeding afresh. Respondent No.11 questioned the said order by preferring the appeal and the Collector has, by the impugned order, allowed the appeal holding selection of respondent No.11 as Anganbari Sevika valid. In my opinion, the petitioner was a necessary party, who ought to have been impleaded in the appeal preferred by respondent No.11 before the Collector. Non-impleadment of the petitioner in appeal before the Collector and passing of the impugned order behind the back of the petitioner, amounts to violation of principles of natural justice inasmuch as the petitioner did not have any opportunity of being heard.

For the aforesaid reason, this application is allowed. The impugned order dated 22.01.2019 passed by the Collector, Siwan, in Anganwari Appeal No.378/2017-18, is hereby quashed. The matter is remanded back to the Collector for passing an order afresh in Anganwari Appeal No.378/2017-18. Respondent No. 11 shall be at liberty to implead the petitioner as party respondent in the said appeal. It is made clear that it



will be obligatory for the Collector to give the petitioner an opportunity of being heard before any final decision is taken in Anganwari Appeal No.378/2017-18.

This application is allowed, but with the observations and directions as above.

(Chakradhari Sharan Singh, J)

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