

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.787 of 2016

Smt. Priyanka Kumari Wife of Sri Ranjeet Paswan, resident of village + P.O.-
Baikathpur, P.S.- Khusharpurpu, District- Patna ... Petitioner

Versus

1. The State of Bihar through Principal Secretary, Social Welfare, Department,
Govt. of Bihar, Patna
 2. Dy. Director, Welfare, Patna Division, Patna
 3. The District Magistrate, Patna
 4. The Director Programme Officer, Patna
 5. The Child Development Project Officer, Khusharupur, Patna
 6. Smt. Poonam Devi, Wife of Sri Arvind Das R/o Village + P.O.- Baikathpur,
P.S.- Khusharupur, District- Patna Respondents
-

Appearance :

For the Petitioner : Mr.Mohan Kumar Singh, Advocate
For the Respondents : Mr.Rakesh Ranjan, AC to GP 22

CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL JUDGMENT

Date : 03-01-2019

Heard learned counsel for the petitioner as well as
learned counsel for the State.

Learned counsel for the petitioner submits that her
selection as Anganbari Sahaika for Center no. 30 in village
Baikatpur, Rohan Tola has been cancelled in view of certain
orders passed in Anganbari Misc.Appeal No.691 of 2013. Appeal
was filed by one Poonam Devi (respondent no.6) as she was
removed from the same center, and the the instant petitioner was
appointed in her place.

It is submitted by learned counsel for the petitioner that
the petitioner was entitled to an opportunity of hearing in the
matter. She has not been impleaded as party in the Anganbari
Misc.Appeal No. 691 of 2013 filed by Respondent no.6 and as



such could not be visited with any penal consequences arising out of the said order, as she was not heard in the said proceedings.

From averments made in the writ petition it is apparent that the dispute in Anganbari Misc. Appeal was between one Smt. Pooam Devi and Radhika Kumari in relation to the selection made for the Center in question earlier. Since Pooam Devi has been removed by the order of the District Magistrate she has preferred an appeal in Anganbari Misc. Appeal No. 691 of 2013 while the issue of the legality of selection *inter se* Poonam Devi and Radhika Kumari was pending adjudication, the petitioner was selected for the Center in question by Selection letter/Chayan Patra dated 7.8.2012.

Selection of the petitioner was a conditional selection. Clause 5 of the Selection Letter/Chayan Patra of the petitioner clearly stipulates that the appointment of the petitioner would be subject to the decision in the pending dispute in relation to appointment of Anganbari Sevika/Sahaika for the center in question. Clause 5 of the Selection Letter/Chayan Patra dated 7.8.2012 is being reproduced herein below:-

“5. इस केन्द्र पर न्यायालय में बाद चल रहा है अतः न्यायालय के आदेश से चयन प्रभावित होगा।”

At the time of selection, i.e., on 7.8.2012 the petitioner was aware that her selection was subject to the



outcome of the pending dispute for appointment to the center in question between Poonam Devi and Radhika Kumari. The petitioner has accepted her conditional selection as Anganbari Sevika based on the Selection Letter with the aforesaid stipulation that her appointment would be subject to the result of pending dispute. Stipulations have been accepted with open eyes, and it does not lie in the mouth of the petitioner to turn around and challenge her removal from the post of Anganbari Sevika on basis of adjudication of the pending dispute, subject to which she has accepted her selection in question.

This Court does not find any infirmity in her removal for the reasons indicated herein above. The writ petition is dismissed.

Petitioner's removal however will not prejudice consideration of the petitioner for her selection in future as the removal is not due to any allegations against the petitioner, nor is the same penal in nature.

(Madhuresh Prasad, J)

Shashi

AFR/NAFR	NAFR
CAV DATE	NA
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