

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13235 of 2015

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1. Ranju Kumari and Anr wife of Jay Prakash Jha resident of Village - Sarhad, P.S. - Pandaul, P.O. - Lohat, District - Madhubani.
 2. Anju Kumari wife of Bipin Chandra Mishra resident of Village - Bidyapati Nagar Chakdah, P.O. P.S. - Madhubani Town, District - Madhubani.

... .. Petitioners

Versus

1. The State Of Bihar through Principal Secretary, Social and Welfare Department, Govt. of Bihar Patna
2. The Director, I.C.D.S. Government of Bihar, Patna.
3. The Commissioner, Darbhanga Division, Darbhanga.
4. The Deputy Development Commissioner-cum-Chief Executive Officer, Madhubani.
5. The District Programme Officer Madhubani, Distt - Madhubani.

... .. Respondents

Appearance :

For the Petitioner/s : Mr.Subhash Kumar Jha
For the Respondent/s : Mr. Apurv Harsh, AC to SC 28

CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

7 28-08-2019 Heard learned Counsel for the petitioners and the learned Counsel for the respondent State.

The writ petition has been filed for a direction to the respondent authorities to conduct counseling and offer contractual appointment to the petitioners as Women Supervisor pursuant to advertisement No. 1 of 2010.

The brief factual background, shorn of unnecessary details, is that Directorate of ICDS in the Social Welfare Department issued the advertisement in question for engaging on contractual basis the Women Supervisors to oversee and



supervise implementation of social welfare schemes being disseminated by ICDS Directorate for children and pregnant women. The advertisement was only for contractual engagement and was not by any standards advertisement for public employment. Those who were to be selected were to act as an agent of the Social Welfare Scheme. Altogether many candidates, including the petitioners, had applied. As per the prepared merit list/gradation list, 59 persons came to be appointed on the basis of said advertisement of 2010 on 6.7.2013. The petitioners, however, could not be offered engagement on contractual basis as none below them had been selected in the process. Nearly 29 vacancies remained to be filled up and, as such, on the basis of merit list prepared in 2013, from which 59 persons had been appointed. The District Programme Officer, Madhubani, issued notice that 29 remaining persons should appear before the authorities along with their testimonials failing which the authorities may proceed to engage those from the merit list prior to 2013 including the petitioners, who had till then not been selected.

The writ petition claims that in view of said notice the petitioners should have been selected against the remaining vacancies. The petitioners have also filed an Interlocutory



Application. I.A. No. 2 of 2019 has placed on record subsequent developments during pendency of the instant proceeding. The advertisement under the amended guidelines dated 31.12.2018 has been issued on 5.7.2019. The last date of submission of form has been extended till 05.08.2019 by notice issued by District Programme Officer, Madhubani (Annexure 5 to I.A. No. 2 of 2019).

Learned Counsel for the petitioners submits that since their candidature was available the authorities in view of the paper notice (Annexure 2) should have engaged the petitioners on contractual basis in stead of embarking on selection afresh.

Learned State Counsel, referring to the averments made in the counter affidavit, submits that the merit panel has been prepared in the year 2013 itself. The resolution of the State Government, of December 1995, issued by Personnel and Administrative Reforms Department, Government of Bihar, clearly stipulates that no such panel would be extended beyond the period of one year. In view of said resolution and having regard to the contractual nature of engagement which was being done pursuant to the advertisement in the year 2010 now if selection is done treating the merit list to be a perennial source, large number of other eligible and suitable persons who have become eligible in the meantime



would be ousted from selection. It was submitted that nature of the selection is only contractual and has no element of public employment.

Such submission of the State Government merits consideration. The authorities having regard to their own resolution referred to hereinabove in order to afford opportunity to others who may have acquire illegibility in the meantime, in accordance with constitutional mandate have rightly embarked upon fresh advertisement.

It goes without saying that the petitioners would be entitled to apply afresh in response to ongoing process. If the petitioners are desirous of consideration in the fresh process, subject to eligibility, they should submit their application before the authorities within two weeks.

The writ petition stands disposed of with the aforesaid liberty.

(Madhuresh Prasad, J)

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