

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.45 of 2019

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Smt. Geeta Kumari Wife of Vijay Kumar, Resident of Village- Rampur Jaiti,
P.O.- Jaiti, Police Station- Dariyapur, District- Saran Chapra.

... .. Petitioner/s

Versus

1. The State Of Bihar.
2. The District Magistrate, Saran at Chapra.
3. The District Programme Officer I.C.D.S., Saran at Chapra.
4. The Child Development Project Officer, Dariyapur, District- Saran.
5. Rinku Kumari, Wife of Kamlesh Kumar Rai, Resident of Village- Rampur Jaiti, P.O.- Jaiti, Police Station- Dariyapur, District- Saran Chapra.
6. Divisional Commissioner, Saran Division.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Bashishtha Narayan Mishra,Advocate.
For the State	:	Mr.Gyan Prakash Ojha- GA-7
		Mr. Gopal Krishna (AC to GA-7)
For the Respondent	:	Mr. Uday Prasad, Advocate.

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CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

6 05-09-2019 Learned counsel for the petitioner is permitted to implead the Divisional Commissioner, Saran Division as respondent no. 6.

The petitioner participated in the process of selection for Aganwari Sevika, in pursuant to the advertisement dated 21.09.2014. The notice of Aam Sabha was on 04.07.2015. The Aam Sabha on 19.03.2015 selected the petitioner who was serial no. 1 and sent her educational testimonial for verification to the authorities. In such manner the petitioner came to be appointed. One of the applicants, private respondent in the instant



proceedings raised an issue that petitioner's selection was not in accordance with law that the certificates submitted by her could not confirm eligibility on the petitioner for participation let alone selection as Aganwari Sevika.

The District Programme Officer on the order dated 10.09.2016 has cancelled the selection of the petitioner.

Against the said order petitioner availed of the remedy of the appeal before the District Magistrate, Saran at Chapra. The order of the District Magistrate dated 04.09.2018 is on the basis of a finding that the testimonial submitted by the petitioner was forged. The finding recorded by the District Magistrate, is non est, it is not preceded by any verification of any of the issuing authorities that the certificate submitted by the petitioner was forged. Prima facie the order of the District Magistrate, Saran dated 04.09.2018 is not sustainable whether the certificates submitted by the petitioner confirmed eligibility or not. The issue which was pending consideration.

On the contrary finding is that certificate is false. This clearly shows that the manner in which the authority has mechanically and without applying his mind passed the order dated 04.09.2018. In view of the aforesaid findings the order of the District Magistrate, Saran dated 04.09.2018 is hereby



quashed.

The petitioner's counsel submits that recently the issue regarding validity of the petitioner's certificate has been decided in favour of the petitioner by a Full Bench Judgment which has recognized the degree being relied upon the petitioner as a valid degree. Since that issue was not examined by the District Magistrate, Saran, Chapra. The matter is remanded to the District Magistrate, Saran, Chapra, the matter is required by the Appellate Authority at present the Divisional Commissioner, Saran, would be the competent Appellate Authority in respect of the dispute between petitioner and private respondent no. 5. Since both the parties are present, they are directed to appear the Divisional Commissioner, Saran on 30.09.2019 to facilitate adjudication of the issues.

This court would observe that to facilitate the expeditious consideration the petitioner should file a fresh appeal before the Divisional Commissioner, Saran on the said date when both the parties are present so that the final decision can be taken in this respect after hearing both the parties by a reasoned and speaking order in accordance with law expeditiously without undue delay and after due notice to any other parties who may be considered proper and necessary party



in the instant proceeding.

The writ petition stands disposed of.

(Madhuresh Prasad, J)

T.Kr./-Rahul
Mishra

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