

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.1541 of 2018

In
Civil Writ Jurisdiction Case No.16736 of 2013

=====

Manju Kumari @ Manju Devi W/o Prakash Kumar Mandal R/o Mohalla
Tulsibari Rajpur Malia, Ward no. 9, P.S. and District-Madhepura

... .. Appellant

Versus

1. The State Of Bihar
2. Director ICDS, Social Welfare Department, Govt of Bihar, Patna
3. District Magistrate, Madhepura
4. District Program Officer, Madhepura
5. Child Development Project Officer, Madhepura
6. Commissioner, Koshi Division, Saharsa
7. Kanchan KUmari W/o Banshidhar Behari R/o Village-Malia, P.S.
Madhepura and District Madhepura

... .. Respondents

=====

Appearance :

For the Appellant/s : Mr. Manoj Kumar Manoj, Adv.
For the Respondent/s : Mr. Gyan Prakash Ojha -GA-7

=====

CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
and
HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH)

Date : 14-11-2019

I.A. No. 8815 of 2018

The delay of 42 days caused in filing the Letters Patent
Appeal is condoned.

Letters Patent Appeal No.1541 of 2018

With the consent of the parties, the appeal has been
taken up for hearing on merits.



2. The instant appeal is directed against the order dated 01.08.2018 passed by the learned single Judge in CWJC No. 16736 of 2013 by which the writ petition seeking a direction upon the respondents for making selection of the appellant on the post of Anganwari Sevika at Anganwari Centre, Tulsibari Rajpur Malia in the district of Madhepura has been dismissed.

3. Learned counsel appearing for the appellant submitted that the appellant is the daughter-in-law living in the Poshak area. She belongs to the Most Backward Class of Annexure-I. She had applied for the post of Anganwari Sevika in the light of advertisement made by the respondents in May, 2007 for Tulsibari Rajpur Malia Centre, Madhepura. The respondent no.7 being not a resident of Poshak area belonging to Backward Class Annexure- II was illegally appointed as Anganwari Sevika on the basis of wrong mapping of the Poshak area. The appellant challenged her appointment by filing a complaint before the respondent no.4, which was rejected vide order dated 28.10.2009. Thereafter, she filed an appeal before the respondent Collector, Madhepura, which was allowed and the appointment of respondent no.7 has been cancelled vide order dated 14.05.2010 on the ground of wrong mapping in the Poshak area. The respondent no.7 filed an appeal before the Commissioner, Koshi Division and after hearing



the parties, vide order dated 12.08.2010, the appeal has been dismissed.

4. He submitted that since the respondent Collector and the Commissioner found illegality in the mapping list of Anganwari and the appointment of respondent no.7 was cancelled, the appellant automatically became entitled for being appointed as Anganwari Sevika.

5. However, on query, learned counsel for the appellant fairly conceded that there was no positive direction either in the order of the District Magistrate or in the order of the Commissioner to appoint the appellant on the post of Anganwari Sevika. He also conceded that apart from the appellant and respondent no.7, there were other applicants for the post of Anganwari Sevika. He has not been able to point out any patent illegality in the order of the learned single Judge.

6. Learned single Judge in his order dated 01.08.2018 has rightly observed that neither the order of the District Magistrate nor the order of the Commissioner directs that the appellant has to be appointed subsequent to the removal of respondent no.7. We are also of the opinion that in the given facts and circumstances of the case no legal right of appointment was available in favour of the appellant. In absence of any legal right in



favour of the appellant, there was no corresponding duty cast on the respondent to appoint the appellant as Anganwari Sevika. Hence, no case for issuance of a writ of mandamus in favour of the appellant was made out.

7. In view of the admitted fact that there are several applicants for the post of Anganwari Sevika, we find no illegality in the order of the learned single Judge whereby he has held that the appellant has no enforceable claim or indefeasible right to claim that she should be the only person to be selected at the Anganwari Centre in question.

8. Accordingly, the appeal, being devoid of any merit, is dismissed.

(Ashwani Kumar Singh, J)

(Anil Kumar Sinha, J)

Pradeep/-

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	15.11.2019
Transmission Date	

