

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No. 8116 of 2020

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Shobha Kumari, (Female), aged about 26 years, Wife of Suresh Rajbansi,
Resident of Village- Thakur Asthan, P.S.- Rajgeer, District- Nalanda.

... .. Petitioner/s

Versus

1. The State of Bihar, through the Principal Secretary Social Welfare
Department, Government of Bihar, Patna.
2. The Director ICDs Directorate Pant Bhawan, Patna.
3. The Collector Nalanda at Bihar Sharif.
4. The District Program Officer (Welfare) Nalanda at Bihar Sharif.
5. The Child Development Project Officer, Rajgir, Nalanda.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Rajesh Kumar, Advocate
For the State : Mr. Sunil Kumar Mandal, SC 3 with
Mr. Arjun Prasad, AC to SC 3

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN
AMANULLAH
ORAL JUDGMENT

Date : 25-11-2020

The matter has been heard *via* video conferencing due
to circumstances prevailing on account of the COVID-19
pandemic.



2. Heard Mr. Rajesh Kumar, learned counsel for the petitioner and Mr. Sunil Kumar Mandal, learned SC 3 along with Mr. Arjun Prasad, learned AC to SC 3, for the State.

3. The petitioner has moved the Court for the following reliefs:

“..... for issuance of writ/order/direction in the nature of certiorari to quash the order dated 02.07.2020, passed in First Appeal Case No. 99/2019, by Collector Nalanda whereby and whereunder the learned Collector has been pleased to cancelled the appointment of the petitioner and directed the C.D.P.O. to take suitable action as per Guideline 2016 and make appointment afresh accordingly.

(i) For issuance of appropriate order/direction to reinstate the petitioner on the post of Anganwari Sevika at the Centre in question.

(ii) And further for any appropriate order/direction to which the petitioner is entitled too, in the facts and circumstance of the case.”

4. On 01.10.2020, the matter was adjourned for the State to verify the position as to how respondent no. 4 has passed the first order terming it as first appeal when the order was to be passed by the respondent no. 5. A counter affidavit has been filed on behalf of the State. The Court finds that a proper counter affidavit has not been filed as the relevant provisions of law being relied upon by the State authorities have not been brought on record or even quoted in the counter affidavit, but the Court has



proceeded to finally hear the matter on the basis of assistance rendered by learned counsel for the parties.

5. Learned counsel for the petitioner submitted that a typographical error has occurred in paragraph no. 1, inasmuch as, the authority which has passed the order is the District Programme Officer (Welfare), Nalanda at Biharsharif though it has been written that it has been passed by the Collector, Nalanda. It was submitted that he may be permitted to correct the same. It was submitted that as per the ICDS Guidelines, 2019, it is the respondent no. 5, who has to pass a reasoned order on the complaint and thereafter, an appeal has to be filed within 30 days but in the present case, the respondent no. 5 has straightway passed the original order, that too terming it as First Appeal. Learned counsel did not press any other point.

6. Learned counsel for the State submitted that the position has to be seen in light of ICDS Guidelines, 2016 as the appointment of the petitioner was made in the year 2018 on the basis of such Guidelines. It was submitted that Clause 12 of the Guidelines provides that an enquiry shall be conducted on a complaint, either by the CDPO or the District Programme Officer and a report shall be submitted and thereafter, it is the District Programme Officer, who shall hear the parties and pass an order,



which has been done in the present case. It was submitted that mere wrong mentioning in the cause title as First Appeal Case No. 99 of 2019, would not change the legal position as the respondent no. 4 is the original authority to pass such order as per the ICDS Guidelines, 2016. It was submitted that the provision requires that the parties be heard before passing of the order which has been done, as is evident from the impugned order dated 02.07.2020 of the respondent no. 4. Further, learned counsel submitted that in the present case, the Court would refrain from interfering on the sole ground that the petitioner has not come with clean hands and has committed fraud while seeking employment under the State. It was submitted that the allegation against the petitioner was that she had produced three different certificates having three different dates of birth; the first being a School Leaving Certificate issued by the Keshoram High School, Bijubighat, Nawada in which her date of birth is recorded as 01.01.1975 and thereafter, certificate of Class-VIII pass on which she got appointment as Asha Activist showing her date of birth as 03.05.1989 and thereafter, the certificate issued by the Bihar School Examination Board, Patna, she got selected as *Aanganbari Sevika* in which her date of birth is recorded as 02.02.1995. It was submitted that the petitioner herself in the written show cause submitted before the respondent no. 5



dated 19.05.2020, with regard to hearing before the officer, in her own pen had written at paragraph no. 3 that she had worked in the Sub Divisional Hospital, Rajgir on the post of Asha Activist on the basis of Class-VIII certificate in which her date of birth was written as 03.05.1989 and thereafter it has been stated that when it appeared to her that it was wrong, she had resigned on 02.04.2018. Learned counsel submitted that it is very clear that she is trying to find an excuse and it cannot be believed that she would realize a mistake of such a serious nature, that too, in a certificate which she had produced before the authorities, after four years and most importantly, that she does not deny that she had not produced that certificate and that she had simply resigned from the post to prevent any drastic action against her. It was submitted that thereafter, she has stated at the very next paragraph that she had obtained the Matriculation certificate on the basis of which she has got the job of *Aanganbari Sevika* in which the date of birth was recorded as 02.02.1995. Thus, it was submitted that the fraud committed by the petitioner is admitted and the Court would not only dismiss the writ application but also direct for appropriate action against the petitioner for such fraudulent act, where at three different points of time, before three different authorities, she had produced different certificates in which her



date of birth is recorded as 01.01.1975, 03.05.1989 and 02.02.1995.

7. At this juncture, when the Court called upon learned counsel for the petitioner to explain as to how she had submitted a certificate in which her date of birth has shown as 03.05.1989 and had worked for four years as it was her certificate and there was no question of her realizing that the date of birth was wrong, learned counsel did not offer any explanation.

8. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, the Court is persuaded by the stand taken by learned counsel. From the facts on record, which are admitted by the petitioner herself, she has committed a fraud on the system by producing certificates before various authorities disclosing different dates of birth, especially, when she admits that she had worked for four years as Asha Activist on the basis of Class-VIII certificate in which her date of birth was 03.05.1989 and thereafter, on the post of *Aanganbari Sevika* on the basis of Matric certificate in which her date of birth is recorded as 02.02.1995; there is no doubt in the mind of the Court that the petitioner has committed fraud and taken undue advantage of the system in a most brazen and illegal manner. Thus, for such conduct, in the considered opinion of the Court, the



writ petition is both devoid of merit and there is no scope for interference, especially by this Court under its prerogative and extraordinary writ jurisdiction under Article 226 of the Constitution of India.

9. For reasons aforesaid, the writ petition stands dismissed. The Court deemed it appropriate to impose cost as also direct for prosecution of the petitioner.

10. At this juncture learned counsel for the petitioner submitted that the Court may grant indulgence to the petitioner as she is a poor lady and has already suffered the consequences and further that the petitioner would stick to her date of birth as 01.01.1975 with regard to all matters henceforth in which her date of birth may be required to be disclosed before any authority.

(Ahsanuddin Amanullah, J.)

P. Kumar/Anand Kr.

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