

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1262 of 2020

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Anupam Kumari, Wife of Shiv Kumar, Resident of Bishanpur, P.O.- Bermi,
Panchayat- Loharpura, Anchal- Nawada Sadar, P.S. / District- Nawada.

... .. Petitioner/s

Versus

1. The State of Bihar, through the Principal Secretary, Social Welfare Dept., Bihar, Patna.
2. The Director, I.C.D.S. Directorate, Social Welfare Dept. Bihar, Patna.
3. The District Magistrate, Nawadah.
4. The Deputy Development Commissioner, Nawada.
5. The District Program Officer (ICDS), Nawada.
6. The Child Development Project Officer, Nawada Sadar, P.S./ Prakhand-Nawada, Distt.- Nawada.
7. Prabha Kumari, wife of Arbind Kumar, resident of Bishanpur, P.O.- Bermi, Panchayat- Loharpura, Anchal- Nawada Sadar, P.S/District- Nawada, PIN-805104.
8. Punam Kumari, Wife of Rohit Ranjan, resident of Bishanpur, P.O.- Bermi, Panchayat- Loharpura, Anchal- Nawada Sadar, P.S./ District- Nawada, PIN - 805104.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Sidhendra Narayan Singh
For the Respondent/s : Mr.Md.Raisul Haque (Sc10)

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CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL JUDGMENT

Date : 14-02-2020

Heard counsel for the petitioner and counsel for the respondents-State.

Petitioner has sought for quashing of order dated 30.07.2019 passed in Case no. 397(M) /2017 issued by the District Magistrate, Nawada.

The effect of the said order is that afresh advertisement for selection of Anganbari sevika for the center



Bishanpur Gram Panchayat, Loharpura ward no. 3 will have to be undertaken.

The brief background is that Advertisement no. 01/2015 was issued for selection of Sevika for the center in question.

Petitioner and private respondents had also applied. In the merit list, respondent no.8 was placed at serial no. 1 whereas petitioner was placed at serial no. 2.

Petitioner's case is that respondent no.7 who was at the bottom of the merit list was declared selected ignoring others above her in the merit list, including the petitioner. Petitioner lodged her complain against said selection. District Programme Officer, Nawada (respondent no.5) cancelled the selection of private respondent no.7, namely, Prabha Kumari vide order dated 10.07.2017 passed in Case no. 42(Misc) Selection/2016. The District Programme Officer had directed Child Development Project Officer to proceed for selection of Savika in Aam sabha, from the existing merit panel which had been prepared on 05.10.2016.

Private respondent no.7 (Prabha Kumari) appealed before the District Magistrate, Nawada in Case no. 397(M) / 2017. On 30.07.2019 District Magistrate rejected the appeal



approved the order of the District Programme Officer in so far as cancellation of selection of Prabha Kumari is concerned. District Magistrate however, has directed to proceed for selection afresh by issuing an advertisement.

In view of this direction, selection now can not be made from panel dated 05.10.2016 as had been directed by the District Programme Officer.

Referring to decision of the apex court in the case of State of U.P. v. Ram Swarup Saroj reported in (2000) 3 SCC 699, counsel for the petitioner submits that for such delay occasion on account of the proceedings before the District Magistrate, petitioner cannot be deprived of her position in the panel dated 05.10.2016.

Since delay has been caused on account of the proceedings before the District Programme Officer and the District Magistrate wherein petitioner was a party, District Magistrate should have directed for making selection from panel dated 05.10.2016 after cancelling selection of Prabha Kumari.

Counsel for the State however, submits that the order of the Collector does not require any interference.

It is submission of the State counsel that it is trite law that life of panel/ select list is normally limited to one year.



Merit list dated 05.10.2016 cannot be treated to be a perennial reservoir.

In view of long lapse of time in between, it is only in the interest and furtherance of the objectives of welfare measures to be disseminated by the Savika that fresh advertisement should be issued so that selection can be made of the best available candidates today to fulfil the objective of Anganbari center.

This court is in agreement with the submissions advanced by State counsel. That apart, it is also worth mentioning here that while petitioner's appeal was pending before the District Magistrate, afresh advertisement for selection of Sevika for the same center had been issued in the year 2018.

It is petitioner's specific assertion in para 10 of the writ petition that she was an applicant in response to the 2018 advertisement. It is a different matter that in light of the order of the Collector which is now impugned in the instant proceedings, process of the selection based on advertisement of 2018 also has now stopped, as Collector has directed for conducting selection process on the basis of fresh advertisement.

Pursuant to advertisement, 2018 petitioner applied without any objection. If at all she intended to assert her



candidature on the basis of panel prepared on 05.10.2016, she was required to do so when subsequent advertisement was issued in 2018.

Admitted fact however, is without raising any objection she has applied in response to the advertisement issued in the year 2018. Present claim of the petitioner therefore, that selection has to be done from panel prepared on 05.10.2016, is also bared on the principle of acquiescence, waiver and promissory and equitable estoppel.

For the reasons indicated hereinabove, writ petition is devoid of substance and accordingly dismissed.

(Madhuresh Prasad, J)

s.hassan/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	26.02.2020
Transmission Date	NA

