

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.299 of 2019

In
Civil Writ Jurisdiction Case No.6717 of 2015

=====

Sima Kumari @ Seema Kumari W/o Sunil Kumar Yadav Resident of Village-
Rahimpur Madhya, P.S.- Khagaria, District- Khagaria, at present residing at
Nanhku Mandal Tola, Ward No.09, Durgapur, P.S. Khagaria, Dist. Khagaria

... .. Appellant/s

Versus

1. The State of Bihar and Ors Bihar
2. The Director, Integrated Child Development Scheme (I.C.D.S.), Bihar, Patna
3. The Divisional Commissioner, Munger Division, Munger
4. The District Magistrate, Khagaria
5. The District Programme Officer, Khagaria
6. The Child Development Project Officer, Khagaria
7. Jyoti Devi W/o Sanjay Yadav, Es-Mukhia, Gram Panchayat Raj Rahimpur
Madhya, P.S. and Dist.-Khagaria, At Present Resident of Village-
Morkahi, P.O. Durgapur, P.S. Mufassil, Dist.-Khagaria

... .. Respondent/s

=====

Appearance :

For the Appellant/s : Mr. Sanjeev Kumar, Adv
For the Respondent/s : Mr. Gyan Prakash Ojha (GA7)

=====

CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE S. KUMAR
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE S. KUMAR)

Date : 17-03-2021

Heard learned counsel for the parties.

This LPA under Clause 10 of Letters Patent Appeal has



been preferred for setting aside the judgment and order dated 29.01.2019 passed in CWJC No. 6717 of 2015, dismissing the writ petition.

Briefly stated, the facts of the case is that on 17.07.2008 Aam Sabha was convened for appointment of Anganbari Sevika at Anganbari Centre No. 213 at Village-Rahimpur Madhya, District-Khagaria, in which Mukhiya Jyoti Devi, Up-Mukhiya, Panchayat Secretary, Rahimpur Madhya and CDPO, Khagaria, were present and among five candidates, Appellant was selected and merit list was prepared on 17.07.2008 and Appellant having highest marks was appointed as Anganbari Sevika and thereafter Appellant got training at Anganbari Sevika Training Centre, Jamalpur, and joined on the post and performing her duty.

Complaint was made by Mukhiya Jyoti Devi on 06.02.2009 before the District magistrate, Khagaria, regarding illegal selection of Anganbari Sevika at Centre No. 213 and District Magistrate, Khagaria directed SDO, Khagaria, to make enquiry in this regard and submit report and pursuant thereto Sub-divisional Officer, Khagaria, made enquiry and submitted a report vide letter no. 1095 dated 13.12.2009 to the District Magistrate, Khagaria, and District Magistrate, Khagaria by



order dated 29.03.2013 passed in Miscellaneous Case No. 18 of 2013 cancelled the selection of Appellant and directed CDPO, Khagaria, to hold fresh selection.

The District Magistrate, Khagaria, on the basis of report of SDO, Khagaria, in his order dated 29.05.2013 has held that in absence of Panchayat Secretary on 17.07.2008 the proceedings for Aam Sabha was differed for next date but CDPO, Khagaria, could not produce the proceeding register on demand and CDPO, Khagaria, stated by her letter dated 23.11.2008 that proceeding register is not available in the office and subsequently by letter dated 10.12.2008 she appointed Appellant although appointment was to be made under the signature of Mukhiya and Ward Member, as such on the basis of enquiry made by SDO, Khagaria, the District magistrate, Khagaria, cancelled the appointment of Appellant against which she filed appeal before the Divisional Commissioner, Munger, which was also dismissed due to her continued non-appearance on several dates before the Appellate Authority which has been taken note by the learned Single Judge while dismissing the writ petition of Appellant and paragraph nos. 3 and 4 of impugned order is reproduced below:-

“3. The respondents have appeared in this matter and filed a counter affidavit. From the counter affidavit, it is



apparent that after filing the appeal, the same was dismissed for want of prosecution as the petitioner did not participate in the proceeding. On 22.02.2014, the same was restored. After 22.02.2014, the Commissioner adjourned the matter to enable the petitioner to appear on 15.11.2014, 06.12.2014 and 27.12.2014. On all the dates, the petitioner/appellant was absent. Accordingly, the Commissioner has rejected the appeal of the petitioner due to non-appearance of the petitioner repeatedly as is stated in the counter affidavit.

4 The said facts have not been denied or disputed as there is no rejoinder or reply to the counter affidavit. This Court would observe that if the petitioner, having filed the appeal, has chosen not to participate in the appeal, there is no occasion for this Court to interfere with the order dated 27.12.2014. The developments in between rejection of appeal on 27.12.2014 and today have not been placed on record by the learned counsel for the petitioner in relation to the selection of Angan Bari Sevika for the Center in question.”

After hearing the parties and considering the materials available on record, this Court does not find any infirmity or error in the order passed by the learned Single Judge requiring any interference by this Court.

Accordingly, the LPA is dismissed.

(Sanjay Karol, CJ)

(S. Kumar, J)

ranjan/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	13.04.2021
Transmission Date	NA

