

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9361 of 2020

Phool Kumari, W/o Shri Satnam Das, resident of Village - Kalna, P.O. Basopatti, P.S. Harlakhi, District- Madhubani - 847225.

... .. Petitioner/s

Versus

1. The State of Bihar through Secretary, Rural Development Department Govt. of Bihar, Patna.
2. The Secretary, Rural Development Department, Govt. of Bihar, Patna.
3. The District Panchayat Raj Officer (DPRO), Madhubani.
4. The District Magistrate, Madhubani.
5. The Sub-Divisional Officer, Benipatti, Madhubani.
6. The Block Development Officer, Harlakhi, Madhubani.
7. Sarpanch Village Katchahari Kalna, District - Madhubani.
8. Sarita Kumari, Wife of Shambhu Nath Thakur, resident of Village - Batuhar, P.O. Sothgaon, District - Madhubani.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Birendra Narayan Sharma, Advocate
For the Respondent/s	:	Mr. Prabhakar Jha, GP-27
		Mr. Akhileshwar Singh, AC to GA-2
		Mr. Rajesh Kumar Singh, Advocate
		Mr. Sanjay Kumar Jha, Advocate
		Mr. Anant Kumar Bhaskar, Advocate

CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

and

HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

(Per: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH)

7 17-12-2021 This matter has been taken up for hearing online through video conference because of COVID-19 pandemic restrictions.

2. The petitioner has put to challenge an order dated 03.02.2020, passed in *Panchayat Katchahari Secretary Niyojan*



Appeal Case No. 89 of 2018-19 by the District Magistrate Madhubani, whereby the petitioner's engagement on contractual basis as *Panchayat Katchahari* Secretary has been cancelled.

3. It appears that the petitioner had earlier approached this Court by filing writ application giving rise to CWJC No. 11594 of 2015, questioning the order passed by the District Magistrate, whereby her appointment as *Panchayat Katchahari* Secretary was cancelled with a direction to recover the amount so far paid to her. This Court, noticing the fact that the petitioner was not given reasonable opportunity of hearing before passing the said order, set aside the order of cancellation of petitioner's appointment with a direction to the District Magistrate, Madhubani to pass a reasoned order afresh after giving the petitioner adequate opportunity of hearing and supplying relevant documents. It is in view of this Court's direction dated 03.01.2019, passed in CWJC No. 11594 of 2015 that the impugned order has been passed.

4. On perusal of the impugned order and the pleadings in the writ petition, it appears that there is no dispute about the fact that the petitioner's date of birth is 02.09.1989. She was appointed as *Panchayat Katchahari* Secretary on the basis of recruitment process undertaken in 2007. Admittedly, the



petitioner was not 18 years of age as on 1st of January of the recruitment year when she had participated in the process of selection.

5. The Rules framed by the State Government for engagement, service condition and duties of *Panchayat Katchahari* Secretary has been brought on record by way of Annexure-2 to the writ application. Rule-5 (ख) of the said Rules prescribes eligibility criteria of age for engagement as *Panchayat Katchahari* Secretary, which reads as under :-

"आयु :- जिस वर्ष नियोजन किया जा रहा हो उस वर्ष की पहली जनवरी को उम्मीदवार की न्यूनतम आयु 18 वर्ष एवं अधिकतम आयु वही होगी जो राज्य सरकार (कार्मिक एवं प्रशासनिक सुधार विभाग) द्वारा समय-समय पर निर्धारित किया जाय।"

6. This is, thus, an admitted fact that the petitioner was not holding the basic eligibility criteria in terms of age for consideration as on 01.01.2007 for selection to the post. It appears from the impugned order that as the petitioner has been found under age for the purpose of selection in question, her appointment has been cancelled.

7. Learned counsel appearing on behalf of the



petitioner has submitted that the petitioner was, in fact, engaged in 2009 when she did fulfill the criteria of age as prescribed under the Rules and, therefore, the impugned order of the District Magistrate requires interference by this Court.

8. We do not find any substance in the submission advanced on behalf of the petitioner after perusing the Rules framed for engagement of *Panchayat Katchahari* Secretary, relevant portion of which has been quoted herein above. As the petitioner was disqualified to be considered in the recruitment year 2007, in our opinion, there is no illegality in the order passed by the District Magistrate, Katihar, cancelling the petitioner's engagement.

9. This application has no merit and is accordingly dismissed.

(Chakradhari Sharan Singh, J)

(Madhuresh Prasad, J)

K.K.RAO/Rajesh

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