

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5985 of 2017

=====

Ambika Devi W/o Ram Sholk Singh, R/o Village-Bhaluaha, Panth Pakar,
Ward No. 16, P.S.-Bathnaha, District-Sitamarhi

... .. Petitioner/s

Versus

1. The State Of Bihar and Ors
2. The Principal Secretary, Social Welfare Department, Govt. of Bihar, Patna.
3. The Divisional Commissioner, Tirhut Division, Muzaffarpur
4. The District Magistrate, Sitamarhi
5. The District Programme Officer, Sitamarhi
6. The Child Development Project Officer, Bathnaha, Sitamarhi
7. The Supervisor, Child Development Project Officer, Bathnaha, Sitamarhi
8. Saumya Sardilya W/o Vijay Kumar R/o Village- Bhathanah, P.O. Panth Paker, Ward No. 16, P.S. Bathraha , Distt. Sitamarhi.
9. Ritu Kumari W/o Ramashanker Singh R/o Village- Bhathanah, P.O. Panth Paker, Ward No. 16, P.S. Bathraha , Distt. Sitamarhi.

... .. Respondent/s

=====

Appearance :

For the Petitioner/s : Mr. Shailesh Kumar
For the Respondent/s : Mr. Prashant Pratap-Gp2

=====

CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
ORAL JUDGMENT

Date : 24-11-2021

Heard learned counsel for the parties.

In the instant petition, petitioner has prayed for following
relief/reliefs:

- “i) For issuance of a writ of certiorari for quashing of order *vide* memo no. 410 dated 23.03.2017 passed in Case No. 1/2017 by respondent no. 5, whereby and where under the petitioner has been removed from the post of Sevika on the ground that the Hon’ble Court has removed the petitioner.
- ii) For issuance of a writ of mandamus for commanding the respondents to ensure that the petitioner be restored to the post of Anganbari Sevika at Anganbari Centre No. 75, Ward No. 16, within Pandaul @ Panth Pakar Panchayat, Block-Bathnaha, District Sitamarhi by considering the fact that the



petitioner has never been removed from post of Anganbari Sevika by the Hon'ble Court.

iii) For issuance of writ of mandamus for direction to the respondents not to disturb the functioning of the petitioner as the petitioner has been appointed by duly constituted Aam Sabha in due process of law.

iv) For issuance of any other relief/reliefs which may deem fit and proper and for which the petitioner may entitle."

On 16.11.2021, the following order was passed.

"Concerned selecting authority is hereby directed to file an affidavit as to whether the petitioner, who has been appointed as Sahayika has resigned from such post seeking entitlement to participate in the process of selection on the post of Sevika as on 23.09.2016 so as to ascertain whether petitioner is eligible to participate in the process of selection to the post of Sevika or not."

Today, learned counsel for the state on instruction submitted that he has filed an affidavit in clarifying the 2016 guidelines that for the purpose of selection and appointment to the post of Sevika if a person was already working as Sahayika is not entitled to participate. Such a contention by means of an affidavit the guidelines issued in the year 2016 cannot be modified. Undisputedly 2016 guidelines for selection and appointment to the post of Sevika there is no condition in debarring Sahayika who was appointed and resigned is not entitled to participate in the process of recruitment the post of Sevika. Therefore, petitioner has made out a case.

Accordingly, order dated 23.03.2017 is set aside. Petitioner is entitled to all benefits including monetary benefits. The same



shall be calculated and disbursed in favour of the petitioner within a period of two months from the date or receipt of this order. Petitioner is entitled to litigation cost and it quantified @ Rs.10,000/-. Cost shall be paid to the petitioner.

(P. B. Bajanthri, J)

GAURAV S./-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	27.11.2021
Transmission Date	NA

