

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10366 of 2020

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Kumari Anupam Sinha Wife of Shri Vinod Kumar, Resident of Village -
Salempur, P.O.- Gurua, P.S. Gurua, District - Gaya, Pin - 824205, Bihar.

... .. Petitioner/s

Versus

1. State of Bihar through Principal Secretary, Department of Health and Family welfare, Government of Bihar, Patna.
2. District Magistrate cum Chairman, District Health Society, Gaya.
3. Civil Surgeon cum Member Secretary, District Health Society, Gaya.
4. In Charge Medical Officer, Primary Health Centre, Gurua, Gaya.
5. The Block Community Mobilizer/Block Co-ordinator Manager (BCM), Primary Health Centre, Gurua, Gaya.
6. Deputy Superintendent Referral Hospital, Sherghati, Gaya.
7. Circle Officer, Sherghati, Gaya.
8. Kumari Kumud Mala, W/o Shailendra Kumar, Resident of Village - Matua, Chilor, P.O. and P.S.- Gurua, District - Gaya, Bihar - 824205.
9. Sunita Kumari, C/o Manoj Kumar Pal, Resident of Village - Tarwan, PO- Dubba, PS- Gurua, District - Gaya, Bihar - 824205.
10. Sandhya Sinha, C/o Rambali Yadav, Resident of Village - Manjhar, Panchayat Colony, P.O.- Cherki, P.S.- Gurua, District - Gaya, Bihar - 824205.
11. Sumitra Kumari, C/o Late Anuj Yadav, Resident of Village - Devariya, Nagwaan, PO- Bharaundha, PS - Gurua, District - Gaya, Bihar - 824205.
12. Nilisha Kumari, C/o Krishna Mistri, Resident of Village - Nagwaan, PO- Nagwaan, P.S.- Gurua, District - Gaya, Bihar - 824205.
13. Asha Kumari, C/o Mithlesh Prasad, Resident of Village - Naser, PO- Gurua, PS- Gurua, District - Gaya, Bihar 824205.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Siddhartha Prasad, Advocate Mr. Sumit Kumar, Advocate
For the State	:	Mr. Mujtabaul Haque, GP-12 Mr. Manish Kumar, AC to GP-12

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CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI

ORAL JUDGMENT

Date : 15-12-2021

Heard the learned counsels for the parties.

2. In the instant petition, petitioner has prayed for
following reliefs:



“1. That the instant writ application is being filed for the issuance of appropriate writ(s)/order(s)/direction(s) for commanding the respondent authorities:-

I. To declare the entire selection process of ASHA facilitator held on 21.11.2019 for Primary Health Centre, Gurau in the block of Gurua, District Gaya as null and void as the same has taken place in the absence of District Community Mobilized/District In-charge of ASHA Programme although as per the rule and guidelines of the District Health Society his presence is mandatory during the selection process hence the entire selection process is void ab-initio.

II. To quash the letter dated 21.11.2019 issued by Incharge Medical Officer, Primary Health Center, Gurua by which the Respondent No. 8 has been appointed as ASHA Facilitator as the said appointment has been made on the basis of illegally obtained B.ED degree hence the appointment on the said post is erroneous, incorrect, arbitrary and doubtful.

III. To command the respondents to reinitiate the selection process and forthwith appoint the petitioner on the post of ASHA facilitator whose name is at serial no. 3 on the Panel list as the Petitioner is having requisite qualification and experience and has secured 56.82% marks as per the panel list which is highest among the bonafide candidates although Respondent Nos. 9 to 13 have secured more percentage than petitioner but they cannot be considered for appointment as they are not bonafide candidates.

IV. The Petitioner further prays for any other relief/reliefs that the Petitioner is entitled to in the fact and circumstances in the case.”

3. During pendency of the present petition, concerned respondent has cancelled the selection process and appointment of



8th respondent. Therefore, respondents are permitted to re-notify the post and proceed in accordance with law within a period of three months from the date of receipt of this order. If 8th respondent's appointment is cancelled, in that event, necessary notice shall be given to her and on receipt of her explanation proceed in accordance with law.

4. At this juncture, learned counsel for respondents submitted that before termination of 8th respondent, she has not been heard. In the result, the concerned authority is hereby directed to withdraw the cancellation of appointment or termination of 8th respondent after due issuance appropriate detail notice as to why her services shall not be terminated with reference to deficiency in the selection process on receipt of her explanation to the notice and proceed in accordance with law. Above exercise shall be completed within a period of two months from the date of receipt of this order.

5. With the above observations, the instant petition stands disposed of.

(P. B. Bajanthri, J)

rakhi/-

AFR/NAFR	
CAV DATE	
Uploading Date	22.12.2021
Transmission Date	

