

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.749 of 2019

In

Civil Writ Jurisdiction Case No.12426 of 2014

Kohenoor @ Kohenoor Begam W/o Md. Allaudin Noorie,D/o Md. Mazahrul Islam R/o Village Dangipara, P.O. Taiyabpur, P.S. Pothiya, District Kishanganj.

... .. Appellant/s

Versus

1. The State of Bihar
2. The District Magistrate cum Collector, Kishanganj
3. The Regional Development Officer, Division,Purnea
4. The District Programme Officer, Kishanganj
5. The Child Development Officer, pothiya, Kishanganj
6. The Mukhiya, Gram Panchayat Phala.
7. Tajuna Parween @ Tanuja Begam W/o Md. Rafique Resident of Village Dangipara,PO Taiyabpur,P.S. Pothiya,Dist.Kishanganj Bihar,

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Gautam Kumar Yadav, 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 : 23-02-2021

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 17.06.2019 passed in CWJC No. 12426 of 2014 (Tajuna Parween @ Tanuja Begum Vs. The State of Bihar & Ors).

Briefly stated, the facts of the case is that Appellant(Kohenoor Begum) and Respondent No. 7 (Tajuna



Parween) had applied in the year-2013 for appointment on the post of Anganbari Sevika at mini Centre of Village Dangipara North, Ward No. 12, Panchayat-Phala, Block-Pothiya, District-Kishanganj.

Accordingly, on 25.06.2013 Aam Sabha was held in presence of CDPO and merit list was prepared in which appellant's name was shown at the top in the merit list but she was not appointed as there was objection filed regarding her date of birth as well as her husband being in Govt. Service and the District Programme Officer, Kishanganj vide order dated 18.07.2013 ordered for appointment of Tajuna Parween @ Tanuja Begum (respondent no. 6) on the post of Anganbari Sevika who was at Serial No. 2 of the merit list.

Against the order dated 18.07.2013 passed by District Programme Officer, Kishanganj, Kohenoor Begum preferred an appeal before the Regional Development Officer, Purnea, giving rise to Miscellaneous Appeal No. 87 of 2013, who set aside the order of appointment of Tajuna Parween @ Tanuja Begum and directed to appoint Kohenoor Begum, who was at serial no. 1 of merit list by his order dated 22.01.2014 and in compliance of which Kohenoor Begum was appointed by the CDPO against which Tajuna Parween @ Tanuja Begum filed writ petition



being CWJC NO. 12426 of 2014, which was allowed by the learned Single Judge and appellate order passed by Regional Development Officer, Purnea, was set aside with liberty to Kohenoor Begum to file appeal against the order of District Programme Officer, dated 30.07.2013 before the competent appellate authority.

It is submitted on behalf of Appellant that in order dated 18.07.2013 passed by the District Programme Officer, Kishanganj, it is specified that aggrieved party can file appeal against his order within 30 days before the Regional Development Officer, Purnea (appellate authority) and accordingly Appellant preferred appeal before the Regional Development Officer, Purnea, which was allowed by the appellate authority.

Under the guidelines issued by the Social Welfare Department dated 17.05.2013 amendment were made in the guidelines of 2011 and according to amended guidelines with respect to complaint made against irregularities in selection of Anganbari Sevika, such complaints will be heard by District Programme Officer, and against his order appeal will lie before the Deputy Director, Welfare, posted in the office of Divisional Commissioner or any officer authorized by the Divisional



Commissioner, however, from the order passed by the Regional Development Officer (appellate authority), it is apparent that the appeal was heard without service of notice upon the writ petitioner Tajuna Parween @ Tanuja Begum and on such ground also the order passed by the appellate authority was not sustainable and fit to be set aside.

The order passed by the learned Single Judge is modified to the extent that Appellant shall file appeal before the appellate authority(whoever was appellate authority on the date of order passed by the District Programme Officer on 30.07.2013), who shall decide the appeal in accordance with law after affording reasonable opportunity of hearing to both the parties.

The present LPA is accordingly, disposed of.

(Sanjay Karol, CJ)

(S. Kumar, J)

ranjan/-

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