

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.4892 of 2021**

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Gayatri Devi Daughter of Shri Devi Dayal Bhakt, Wife of Shri Manoj Kumar, Resident of village- Kohara Bazar, Police Station- Daudpur, District- Saran (Chapra). At present working as Aanganbari Sahaiyka at Centre no. 95, ward no. 3, Gram Panchayat Raj Balesra, Block- Manjhi, District- Saran at Chapra

... .. Petitioner/s

Versus

1. The State of Bihar through the Secretary, Social Welfare Department, Government of Bihar, Patna
2. The Director, I.C.D.S., Social Welfare Department, Government of Bihar, Patna
3. The Divisional Commissioner, Saran Division at Chapra
4. The District Magistrate, Saran at Chapra
5. The District Programme Officer, Integrated Child Development Scheme (ICDS), Saran at Chapra
6. The Child Development Project Officer, Manjhi, District- Saran at Chapra
7. The Lady Supervisor, Manjhi, District- Saran at Chapra
8. The Ward Member, Ward no. 8, Gram Panchayat Raj Balesra, block- Manjhi, District- saran at Chapra
9. Kumari Sobha Kushwaha wife of Late Amit Ranjan Resident of village- Kohara Bazar, Police Station- Daudpur, District- Saran (Chapra)

... .. Respondent/s

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**Appearance :**

For the Petitioner/s : Mr. Umesh Kumar Mishra, Advocate  
For the Respondent/s : Md. Raisul Haque, SC 10

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

**Date : 02-02-2022**

This matter is heard *via* video conferencing due to circumstances prevailing on account of the COVID-19 Pandemic.

Service of notice to ninth respondent-Kumari Sobha Kushwah is dispensed with since no adverse order is passed against them.



In the instant petition, petitioner has prayed for the following relief(s):-

*“(i) For issuance of an appropriate writ in the nature of certiorari for quashing the letter no.08 dated 02.01.2021 issued under the signature of the District Programme Officer, Saran Chapra addressing to the Child Development Project Officer, Manjhi, Saran, which is with regard to cancellation of letter granting bonus marks to the Sahaiyka in the selection of Sevika. He has mentioned that Smt. Gayatri Devi, wife of Manoj Kumar is working as Aanganbari Sahaiyka at Aanganbari Centre No. 95, Panchayat Balesra, Ward No. 03, Block Manjhi. She had applied for her selection as Aanganbari Sevika at Ward No. 8 and had requested for additional bonus marks. Regarding the provisions contained department letter no. 2222 dated 25.05.2018, telephonic communication was done, in which, it has been clarified that the aforesaid amendment new provision will be applicable only on the fresh advertisement and not on the centres, who have already advertised the posts. Since the post of Sevika at Gram Panchayat Balesra, Ward No.8 has been advertised by the Child Development Project Office in the year 2017, which is earlier to the department letter no. 2222 dated 25.05.2018. Therefore, in the light of above the 10 bonus marks will not be given to Smt. Gayatri Devi, wife of Manoj Kumar. Hence, the earlier letter is being cancelled and the selection of Sevika in the aforesaid ward has to be done per department's rule, the said letter is completely arbitrary and without application of mind as only the new provisions/amended provisions of 2018 will be applicable on the selection process for the post of Anganbari*



*Sahaiyka/Sevika, which has not yet been completed even though the posts were advertised in the year 2017.*

*(ii) For issuance of an appropriate writ in the nature of mandamus for commanding and directing the respondent authorities concerned to rectify the provisional merit for the post of Aanganbari Sevika at ward no. 8, Gram Panchayat Raj Balesra, Block Manjhi, District- Saran at Chapra as in the provisional merit list the guidelines of the ICDS has not been followed and the petitioner has not been given 10 additional bonus marks in the light of memo no. ICDS/40010/2016/2222 dated 25.05.2018, by which, amendment has been made in the 2016 guideline, by which, there is provision that if an Aanganbari Sahaiyka is also applicant for the post of Aanganbari Sevika and if she possesses the required minimum qualification and the age, then she will be given additional 10 bonus marks and the merit list will be prepared accordingly.*

*(iii) For issuance of an appropriate writ in the nature of mandamus for commanding and directing the respondent authorities concerned to consider the candidature of the petitioner for selection on the post of Anganbari Sevika at Ward No. 08, Gram Panchayat Raj Balesra, Block-Manjhi, District-Saran at Chapra, as she is having better merit marks than the private respondent, as she has been continuing as Anganbari Sahayika as Ward No. 3 since 2004 and she is entitled to be selected as Aanganbari Sevika at Ward No. 08, Gram Panchayat Ra Balesra, Block Manjhi, District -Saran at Chapra by providing 10 additional bonus marks.*



*(iv) For issuance of any other appropriate writ/writs, order/orders, direction/directions for which the petitioner will be found entitled in the facts and circumstances of the case.”*

For issuance of writ of mandamus there must be two ingredients namely legal and statutory right followed by demand before the competent authority. Perusal of the writ petition both the ingredients are not forthcoming, therefore, the present petition cannot be entertained in the light of Hon’ble Apex Court decision in the case of **Mani Subrat Jain vs. State of Haryana** reported in **(1977) 1 SCC 486**.

Accordingly, the present writ petition stands dismissed reserving liberty to the petitioners to approach the competent authority in submitting a detailed representation along with the judicial pronouncements, if any within a period of eight weeks from the date of receipt of this order. On receipt of petitioner’s representation the competent authority is hereby directed to pass a speaking order and communicate to the petitioner within a reasonable period of time.

**(P. B. Bajanthri, J)**

Vikash/-

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