

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1742 of 2021

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Priyanka Kumari Wife of Shri Prakash Kumar Singh Resident of Village and
Post Office- Kumhaila, Police Station- Charpokhari, District- Bhojpur at Ara.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Social Welfare
Department, Government of Bihar, Patna.
2. The District Officer, Bhojpur at Ara.
3. The District Project Officer (I.C.D.S.), Bhojpur at Ara.
4. The Child Development Project Officer, Charpokhari, District- Bhojpur at
Ara.
5. The Reena Kumari Wife of Chittranjan Prasad Singh Resident of Village and
Post Office- Kumhaila, Police Station- Charpokhari, District- Bhojpur at
Ara.

... .. Respondent/s

with

Civil Writ Jurisdiction Case No. 7388 of 2019

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Reena Kumari, Wife of Chitranjan Prasad Singh, resident of Village-
Kumhaila, Police Station- Charpokhari, District- Bhojpur at Ara.

... .. Petitioner/s

Versus

1. The State of Bihar Bihar.
2. The Principal Secretary, Social Welfare Department, Government of Bihar,
Patna.
3. The District Officer, Bhojpur at Ara.
4. The District Project Officer (I.C.D.S.), Bhojpur at Ara.
5. The Sub Divisional Officer, Piro, under district- Bhojpur.
6. The Child Development Project Officer, Charpokhari, under district-
Bhojpur at Ara.
7. Smt. Priyanka Kumari, Wife of Prakash Kumar Singh, resident of Village
and Post Office- Kumhaila, Police Station- Charpokhari, District- Bhojpur at
Ara.

... .. Respondent/s

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Appearance :

(In Civil Writ Jurisdiction Case No. 1742 of 2021)

For the Petitioner/s : Mr.Rajendra Lal Das

For the Respondent/s : Mr.Lalit Kishore (Ag)

(In Civil Writ Jurisdiction Case No. 7388 of 2019)

For the Petitioner/s : Mr.Ramchandra Singh



For the Respondent/s : Mr.S.K.Mandal (SC-3)
Ms. Neelam Kumari, AC to SC-3

CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
ORAL JUDGMENT
Date : 18-05-2022

CWJC No. 1742 of 2021 filed by Priyanka Kumari

in which it is prayed, as under:-

“That this is an application for issuance of appropriate writ/writs, order or orders, direction or directions to the concerned respondents authorities for the following relief/reliefs:-

(A) For appropriate direction to the concerned Respondent Nos. 2 to 4 to take action on the representation dated 22.05.2020 of the petitioner and set aside the order of selection and appointment letter issued in favour of the private Respondent No. 5 issued by the concerned Respondent No. 4 dated 04.07.2020 violating the order dated 30.01.2019 of the District Officer, Bhojpur, during the pendency of the C.W.J.C. No. 7388 of 2019.

(B) To set aside the order vide Memo No. 161 dated 04.07.2020 of office of the concerned Respondent No. 4.

(C) For appointment of the petitioner in place of the private Respondent No. 5 being bonafide on the basis of merit list stand at Serial No. 1, above the private Respondent No. 5.

(D) For due punishment and action against the concerned Respondent No. 4 for violating the order of the superior officer, i.e. District Officer, Bhojpur, Respondent No. 2.

(E) To pass any other order and direction for which the petitioner is duly entitled for, under the law.”

The aforesaid relief is dependent on C.W.J.C. No.

7388 of 2019 filed by Reena Kumari in which Priyanka Kumari



is contesting respondent.

On 20.08.2017, advertisement was published to fill up the post of Anganwari Sevika at Anganwari Centre No. 17, Kumhaila-1, Ward No. 8, Panchayat- Koyal, Anchal-Charpokhari, District- Bhojpur. Petitioner Reena Kumari and contesting respondent Priyanka Kumari are candidates for the aforesaid post. Priyanka Kumari's candidature was not considered by the selecting and appointing authority on the score that she was not the resident of Ward No. 8 as on 08.09.2017, the date on which eligible candidates were required to submit their application. Thus, petitioner- Reena Kumari was appointed as Anganwari Sevika, at Anganwari Centre No. 17, Kumhaila-1, Ward No. 8, Panchayat- Koyal, Anchal-Charpokhari, District- Bhojpur. It was the subject matter of the litigation before the District Magistrate, Bhojpur on appeal side and Priyanka Kumari's appeal was allowed on 30.01.2019. The District Magistrate-appellate authority while setting aside the order of appointment issued in favour of petitioner Reena Kumari further ordered for re-advertising the post. Thus, Reena Kumari feeling aggrieved by the order of the District Magistrate dated 30.01.2019 presented this petition. The reasons assigned by the District Magistrate to re-advertise the post was not on the



procedural defects in the process of selection. On the other hand, there was a dispute relating to resident of Ward No. 8 among the petitioner and contesting respondent.

Learned counsel for the petitioner submitted that contesting respondent Priyanka Kumari was not resident of Ward No. 8. Therefore, petitioner - Reena Kumari's selection and appointment is in order. In the absence of any defect in the selection process, District Magistrate, Bhojpur has committed error in re-advertising the post.

Per contra, learned counsel for respondent Priyanka Kumari submitted that Priyanka Kumari married on 30.06.2017 and her husband is resident of Ward No. 8. Therefore she be treated as resident of Ward No. 8.

On the other hand, learned State counsel submitted that there was a dispute relating to resident of petitioner and contesting respondent. Therefore, the District Magistrate has rightly ordered for re-advertising the post.

Heard the learned counsels for respective parties.

Crux of the matter in the present petition is whether the process of selection to the post of Anganwari Sevika for the aforesaid Ward is in order or not? Further whether re-advertisement of the post is warranted or not?



Undisputedly, contesting respondent Priyanka Kumari's case was not considered on the score that she was not a resident of Ward No. 8. In this regard, she has not produced any material information except some oral statement made by her relatives. Therefore, the selecting and appointing authority proceeded to select petitioner Reena Kumari for the aforesaid post and she was appointed on 03.01.2019.

Feeling aggrieved and dissatisfied with the order of appointment issued in favour of the petitioner Reena Kumari dated 03.01.2019, contesting respondent Priyanka Kumari filed an appeal before the District Magistrate and it was disposed of on 30.01.2019. Thus, petitioner has presented this petition. There is no dispute relating to the fact that Reena Kumari is resident of Ward No. 8.

On the other hand, dispute is in respect of contesting respondent Priyanka Kumari with reference to the fact that she has married a resident of Ward No. 8 on 30.06.2017. To that effect, there is no material information like wedding invitation or registration of marriage before the Registering authority so as to draw inference that contesting respondent Priyanka Kumari is a resident of Ward No. 8. Merely oral statement made by her relatives is not admissible.



In the light of these facts and circumstances, the order of the District Magistrate dated 30.01.2019 stands set aside. The petition (CWJC No. 7388 of 2019) filed by petitioner Reena Kumari stands allowed.

The concerned respondent is hereby directed to reinstate the petitioner Reena Kumari into service within a period of two weeks from the date of receipt of this order. Petitioner Reena Kumari is entitled to all monetary benefits. The same shall be calculated from the date of displacing her from the post of Anganwari Sevika till her reinstatement.

In the light of the order passed in CWJC No. 7388 of 2019, CWJC No. 1742 of 2021 do not survive for consideration. Accordingly, the same (C.W.J.C. No. 1742 of 2021) stands disposed of.

At this stage, learned State counsel submitted that pursuant to the District Magistrate order dated 30.01.2019, the official respondent must have proceeded with the fresh advertisement in filling up of the post of Anganwari Sevika in the aforesaid Ward. If it is so, the competent authority is hereby directed to undertake necessary proceeding in issuing notice to the newly selected and appointed candidate relating to the present judicial pronouncement. On receipt of such persons'



explanation proceed to terminate her services in accordance
with law within a period of two months from today.

(P. B. Bajanthri, J)

rakhi/-

AFR/NAFR	
CAV DATE	
Uploading Date	20.05.2022
Transmission Date	

