

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17574 of 2014

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Rubi Kumari, wife of Shri Raj Kishore Prasad Gupta, Resident of village-Sharma Tola, Post Office-Simri Bakhtiarpur, Police Station-Bakhtiarpur, District-Saharsa

... .. Petitioner/s

Versus

1. The State Of Bihar through the Executive Director cum Special Secretary, Department of Health and Family Welfare, Bihar, Patna
2. The District Magistrate-cum-Chairman, District Health Society, Saharsa
3. The Civil Surgeon, Saharsa
4. The District Community Co-ordinator (DCM), Health Society, Saharsa
5. The In-Charge Medical Officer-cum-Secretary, Primary Health Centre, Simri Bakhtiarpur, District-Saharsa
6. The Chairman-cum-Ward Counselor, Ward No. 2, Nagar Panchayat, Simri Bakhitarpur, District-Saharsa.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Syed Masleh-Uddin Ashraf, Adv.
For the Respondent/s	:	Mr. Kumar Manish, SC-21

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH

ORAL JUDGMENT

Date : 05-12-2022

The present writ petition has been filed for directing the Respondents to issue letter of training to the petitioner, who has been selected as “Asha”, through the Aam Sabha, for Ward No. 2, Sharma Tola No. 34, Nagar Panchayat Simri Bakhtiarpur, District-Saharsa.

2. The brief facts of the case, according to the petitioner, are that vide letter dated 5.9.2013, issued by the Respondent No. 5 i.e. the In-charge Medical Officer-cum-Secretary, Primary Health



Centre, Simri Bakhtiarpur, District-Saharsa, request was made to convene an Aam Sabha for selection of "Asha" for Ward No. 2, Sharma Tola No. 34, whereupon an Aam Sabha was organized on 13.9.2013. The petitioner, having the requisite qualifications, had also applied for being selected as "Asha", whereupon she is stated to have been selected as "Asha" and then, the petitioner had submitted her joining before the Headmaster, Mahanth Narayan Das High School, Chakbharo, however, she was not sent for training, even after completing all the formalities, leading to filing representation before the Respondent Authorities, but to no avail. It is thus submitted by the learned counsel for the petitioner that the Respondent authorities be directed to send the petitioner for training and thereupon, appoint her on the post of "Asha".

3. Per contra, the learned counsel appearing for the Respondent-State has referred to the counter affidavit, filed in the present case and has submitted that as per the guidelines, issued by the



State Health Society Bihar, Patna, the selection of Accredited Social Health Activist ("Asha") is to be made by the Aam Sabha under the Chairmanship of the Ward Counsellor of the concerned Panchayat. Accordingly, for selection of "Asha" for the Agwani Centre at Sharma Tola, Simri Bakhityarpur Block, Saharsa, Aam Sabha was organized on 13.9.2013, under the Chairmanship of the Ward Counsellor of the Nagar Panchayat, Simri Bakhityarpur, Ward No. 2, Saharsa and candidates including the petitioner had participated in the selection process, however, one Smt. Geeta Devi was selected as "Asha" unanimously, which is also mentioned in the proceeding register. It is further submitted that at the end of the proceedings drawn up for the Aam Sabha held on 13.9.2013, in a different hand writing, it has been mentioned that Smt. Geeta Devi including two other candidates have enclosed their mark-sheet of Class 8, hence, their candidature has been disqualified and the petitioner i.e. Ruby Kumari has been selected as



“Asha”, nonetheless, the fact remains that even according to the Medical Officer Incharge, Primary Health Centre, Simri, Bakhtiyarpur i.e. the Convenor of the Aam Sabha and the members of Nagar Panchayat, Smt. Geeta Devi was selected unanimously as “Asha”. It is also submitted that the certificate of Smt. Geeta Devi was verified and found to be genuine. Thus, it is submitted that the name of the petitioner was incorporated by interpolating the records.

4. The learned counsel for the Respondents has also referred to the proceedings of the Aam Sabha dated 13.9.2013, which also depicts that one Geeta Devi was selected as “Asha” unanimously, however, after the said decision had been recorded in the proceeding register, a note was penned down in different hand writing, wherein the petitioner has been stated to be the candidate selected as “Asha”, however, the Incharge Medical Officer, Primary Health Centre, Simri, Bakhtiyarpur, Saharsa, who is the Convenor of the Aam Sabha, has recorded therein that the Ward Counsellor, on



the pretext of affixing stamp, had asked for the register and made interpolation by penning down a subsequent note, which was never discussed in the Aam Sabha. In such view of the matter, it is submitted that Smt. Geeta Devi is the candidate, who has been legally and validly selected as "Asha", therefore, the petitioner has got no case, whatsoever and her writ petition is fit to be dismissed.

5. I have heard the learned counsel for the parties and gone through the materials on record. A bare perusal of the submissions made by the learned counsel for the Respondents, as recorded in the preceding paragraph, would show that Smt. Geeta Devi was selected unanimously by the Aam Sabha in its meeting held on 13.9.2013 and admittedly records appear to have been interpolated subsequently, in order to deceitfully declare the petitioner as the successful candidate, however, it has been certified by the Incharge Medical Officer, Primary Health Centre, Simri, Bakhtiyarpur, Saharsa, who is the convenor of the



Aam Sabha in question, that Smt. Geeta Devi was unanimously selected by the Aam Sabha as “Asha” and proceeding was drawn on 13.9.2013 to the said effect but subsequently, a note was appended below the aforesaid proceedings, in a different hand writing, circumspectly and deceitfully depicting the petitioner to have been selected as “Asha”, nonetheless, the fact remains that the subject matter of the subsequent note was neither ever discussed in the Aam Sabha nor the Aam Sabha had ever resolved to select the petitioner as “Asha” and on the contrary, Smt. Geeta Devi was selected as “Asha” by the Aam Sabha unanimously.

6 Having regard to the facts and circumstances of the present case and for the reasons mentioned hereinabove, this Court finds that the present writ petition is devoid of any merit, hence is dismissed.

(Mohit Kumar Shah, J)

Ajay/-

AFR/NAFR	AFR
CAV DATE	NA
Uploading Date	29.3.2023
Transmission Date	NA

