

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15478 of 2014

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Babita Kumari wife of Arun Kumar Poddar, resident of village- Dharhara,
P.O.- Dharhara, P.S.- Banmankhi, District- Purnea

... .. Petitioner/s

Versus

1. The State Of Bihar
2. The Director, I.C.D.S., Bihar, Patna
3. The District Commissioner, Purnea
4. The Collector, Purnea
5. S.D.O., Banmankhi, P.O. and P.S.- Banmankhi, Dist.- Purnea
6. Child Development Project Officer, Banmankhi, Dist.- Purnea
7. Mamta Kumari wife of Manish Kumar Gupta, Resident of village and P.o.-
Pipra, P.S.- Chautham, Dist.- Khagaria
8. Mukhiya, Dharhara Gram Panchayat, P.O. and P.S.- Banmankhi, District-
Purnea

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Rajesh Kumar Sinha, Adv.
For the Respondent/s	:	Mr. Manoj Kumar, AC to GP-4

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH

ORAL JUDGMENT

Date : 28-11-2022

The present writ petition has been filed for quashing the order dated 31.7.2014, passed by the Director, Integrated Child Development Scheme, Bihar, Patna i.e. the Respondent No. 2 herein as also for quashing the orders dated 22.7.2011, passed by the District Magistrate, Purnea and the one dated 29.2.2012, passed by the Divisional



Commissioner, Purnea in Miscellaneous Appeal No. 53/2012, whereby and whereunder the selection of the petitioner made on the post of Anganbari Sevika has been cancelled and the same has been upheld in appeal.

2. The brief facts of the case, according to the petitioner, are that the Mukhiya of Gram Panchayat called for a general meeting /Aam Sabha for selection of Anganbari Sevika on 22.6.2007 and a report was called for with regard to the prevailing confusion regarding the mapping of the castes, whereupon, it was found that in the village in question, Adivasis were in majority, hence directions were issued on 27.7.2007 for taking steps for preparing the merit list. The meeting of the Aam Sabha was again held on 30.7.2007 and a decision was taken to appoint the petitioner on the post of Anganbari Sevika, whereafter letter dated 2.8.2007 was issued to the petitioner by the office of the Dharhara Panchayat, intimating her that she has been selected as Anganbari Sevika for Anganbari Centre No. 164. The petitioner was then



sent for training where she successfully completed her training. While the petitioner was performing her duties as Anganbari Sevika to the satisfaction of all concerned, suddenly, in the year, 2011, the petitioner was called upon to reply to the charges levelled by one Mamta Kumari i.e. the Respondent No. 7 herein, who claimed to be having higher marks in the merit list than the petitioner, whereafter the District Magistrate, Purnea, vide letter dated 22.7.2011, issued an order, terminating the selection of the petitioner on the post of Anganbari Sevika. The petitioner had then filed an appeal before the Divisional Commissioner, Purnea, however, the same was also dismissed, by an order dated 29.2.2012. The petitioner, thereafter, filed an appeal before the Respondent No. 2 herein, however, the same has also been rejected by the impugned order dated 31.7.2014.

3. The learned counsel for the petitioner has submitted that no consideration whatsoever has been made by the Respondent authorities and instead, the selection of the petitioner as



Anganbari Sevika has been cancelled erroneously and the appeals filed before the higher authorities have also been rejected in a mechanical manner without referring to the lis involved in the present case. The learned counsel for the petitioner has further submitted that the minutes of the proceedings of the Aam Sabha dated 22.6.2007/27.7.2007 would show that the same have been endorsed by the Child Development Project Officer and since the meeting dated 30.7.2007 was in continuation thereof, the same was not required to be again endorsed by the Child Development Officer, hence, it cannot be said that the selection of the petitioner, made in the Aam Sabha held on 30.7.2007, was not valid. It is also submitted that the order dated 22.7.2011, passed by the District Magistrate, Purnea, the order dated 29.2.2012, passed by the Divisional Commissioner, Purnea and the order dated 31.7.2014, passed by the Respondent No. 2, are nonest and illegal in the eyes of law, hence, are fit to be set aside.

4. Per contra, the learned counsel for the



Respondents has submitted, by referring to the counter affidavits, filed in the present case that the Aam Sabha was held on 30.7.2007, for selecting Sevika for Anganbari Centre No. 164, wherein the petitioner was selected, however, a complaint was made by the Respondent No. 7 herein, before the District Magistrate, Purnea, who heard the matter on 8.7.2011 and found that irregularities have been committed since neither the Lady Supervisor nor the Child Development Project Officer were present at the time, the Aam Sabha was held, since their signatures were not found on the minutes of the Aam Sabha dated 30.7.2007, which is mandatory, inasmuch as either the Child Development Project Officer or the Lady Supervisor are mandatorily required to be present during the course of holding of the Aam Sabha, as special invitee member, hence, the District Magistrate, Purnea had cancelled the selection process, leading to disengagement of the petitioner. The petitioner had then filed an appeal before the Divisional Commissioner, Purnea, which was



rejected, vide order dated 29.2.2012 and the same was also affirmed, by an order dated 31.7.2014, passed by the Respondent No. 2 herein.

5. I have heard the learned counsel for the parties and perused the materials on record. It is apparent from the records that a meeting of the Aam Sabha was held on 22.6.2007 for the purposes of making selection on the post of Sevika/Sahayika, however, on account of certain disputes having erupted, pertaining to survey list, the Aam Sabha was adjourned and then again, a meeting of the Aam Sabha was held on 30.7.2007, wherein though the petitioner was selected as Anganbari Sevika, however, the Special Invitee member, required to be present in the meeting mandatorily, as per the Rules, i.e. either the Child Development Project Officer or the Lady Supervisor, were not present, inasmuch as the proceedings of the meeting of the Aam Sabha held on 30.7.2007 do not bear their signature, resulting in the decision taken in the said meeting dated 30.7.2007, being rendered vitiated in the eyes of



law. It is on account of the aforesaid proceedings of the Aam Sabha being marred by the said irregularities, the District Magistrate, Purnea, had cancelled the entire selection process. As far as the submission of the petitioner to the effect that the meeting held on 30.7.2007 was in continuation of the meeting of the Aam Sabha held on 22.6.2007, in which the Child Development Officer was present and thereafter, she had given appropriate directions on 27.7.2007, thus non-presence of the special invitee member would not vitiate the proceedings of the Aam Sabha held on 30.7.2007, is not only a misconceived argument, but also depicts that admittedly, the special invitee member was not present on 30.7.2007, when the Aam Sabha was held and the petitioner was selected as Anganbari Sevika, resulting in the decision taken by the Aam Sabha in the said meeting dated 30.7.2007 to be vitiated in the eyes of law.

6. Having regard to the facts and circumstances of the case and for the reasons mentioned herein-



above, this Court finds that the decision of the District Magistrate, Purnea, as contained in Memo dated 22.7.2011, to cancel the selection process, marred with irregularities, cannot be faulted with. Consequently, the orders dated 29.2.2012, passed by the Divisional Commissioner, Purnea and the one dated 31.7.2014, passed by the Respondent No. 2 herein, upholding the said decision of the District Magistrate, Purnea also do not suffer from any infirmity, hence, I do not find any merit in the present writ petition. Accordingly, the present writ petition stands dismissed, being devoid of any merit.

(Mohit Kumar Shah, J)

Ajay/-

AFR/NAFR	AFR
CAV DATE	NA
Uploading Date	31.12.2022
Transmission Date	NA

