

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No 9711 of 2019

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Raj Kumari Devi W/o Naresh Kumar Yadav Vill.- Makra, P.s.- Nayagoan,
distt.- Saran

... .. Petitioner/s

Versus

1. The State of Bihar through Secretary, Social Welfare Department, Govt. of Bihar, Patna
2. The Director (I.C.D.S.) Social Welfare Department, Govt. of Bihar, Patna
3. The District Magistrate Saran at Chapra
4. The District Programme Officer Saran
5. The Child Development Project Officer (C.D.P.O.) Sonapur, Saran
6. Suman Devi W/o Bindheshwar Sah Vill.- Makra, P.s.- Nayagoan, Distt.- Saran

... .. Respondent/s

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Appearance :

For the Petitioner/s : M/s Ajay Kr Singh, Rajendra Pd Sah, Advocates
For the Respondent/s : Mr Rajesh Kumar, AC to GP III

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CORAM: HONOURABLE MR JUSTICE MADHURESH PRASAD

ORAL ORDER

2 20-09-2022 Heard learned counsel for the petitioner as well as the
learned State Counsel.

2 The brief undisputed facts are that petitioner was selected as Anganwari Sevika at Aam Sabha dated 24.10.2014. The selection was cancelled on basis of a complaint made by Respondent No 6, in Anganwari Case No 22 of 2014 under order dated 12.04.2016, passed by the District Programme Officer, Saran at Chapra. The petitioner moved the Court of District Magistrate against the said order in Anganwari Appeal No 5 of 2016. The District Magistrate remanded the matter to



the District Programme Officer under order dated 30.03.2017 contained in Memo No 161, dated 06.04.2017, for reconsideration.

3 Petitioner's counsel submits that upon reconsideration, the District Programme Officer has rewritten the earlier order. The entire exercise of reconsideration, is an exercise in futility, without taking into consideration the amendments to Clause 4.9 of the Anganwari selection procedure contained in the 2011 Guidelines. Clause 4.9 stipulates that if one of the class of specified relatives of a candidate is in employment then the same will be a disqualification for the candidate. This clause, however, specifies that if income of the specified relative from employment is less than Rs 6,000/- per month then the disqualification shall not apply. Clause 4.9 of the Anganwari Sevika/Sahayika Guidelines for selection, 2011 reads as follows:

“4.9 संबंधित पंचायत/ प्रखंड/अंचल/अनुमंडल एवं जिला में पदस्थापित सरकारी (केन्द्र सरकार एवं राज्य सरकार)/ अर्द्धसरकारी पुरुष कर्मचारी/पदाधिकारी की पत्नी /बहू/ अन्य रिश्तेदार का चयन सेविका पद पर नहीं किया जायेगा।
[रिश्तेदार से अर्थ है माँ (सौतेला/दत्तक पुत्र एवं पुत्री) भाभी (अर्थात् बड़े एवं छोटे भाई की पत्नी, पुत्री, बहन)। तथा इसके साथ सरकारी (केन्द्र सरकार एवं राज्य सरकार)/अर्द्धसरकारी महिला कर्मचारी/पदाधिकारी के मामले में उनके पति के सहोदर भाई की पत्नी, बहू, पुत्री और ननद] सेविका / सहायिका के पद पर चयन हेतु अयोग्य होगी।

संविदा अथवा मानदेय आधारित कर्मचारी या



पदाधिकारी जिनकी मासिक आय रु. 6000/- (हजार रुपये)
या उससे कम है, उनके ऊपर यह कंडिका लागू नहीं होती
है।"

4 Petitioner is **Bhabhi** (wife of younger brother) of a Panchayat Teacher. It is submitted by the petitioner's counsel that the minimum income limit for the purposes of disqualification has been amended subsequently. However, the District Programme Officer has held the petitioner disqualified by taking into consideration the original unamended minimum income of Rs 6,000/- and not the subsequently enhanced limit of Rs 15,000/- per month as per 2015 Amendment to the Guidelines of 2011. Petitioner's counsel has submitted that petitioner's elder brother-in-law was getting Rs 6,300/- per month which was much lesser than the revised minimum income of Rs 15,000/-. The petitioner, therefore, was not disqualified.

5 The petitioner again approached the District Magistrate by filing Anganwari Appeal No 6 of 2017. Surprisingly, this time the appeal has been rejected even though the District Programme Officer has not taken into consideration the amended limit of income of specified relatives of the candidate.

6 Learned State Counsel submits that since the Aam



Sabha was held on 24.10.2014, petitioner's eligibility/disqualification as on that date is the relevant consideration. Amendment, subsequent to the Aam Sabha, specifically the amendment dated 07.08.2015, being relied upon by the petitioner, cannot be made the basis of considering the petitioner's eligibility or disqualification.

7 Since reliance is placed on the amendment dated 07.08.2015, this Court would consider it appropriate to take note of the fact that the amendment of 07.08.2015 contains a specific clause which reads as follows:

"उपरोक्त संशोधन/नए प्रावधान तत्काल प्रभाव से लागू होंगे।"

8 It is expressed in equivocal terms that the amendment is applicable with effect from the date of amendment and not with retrospective effect. The benefit of enhanced minimum income limit cannot be claimed by petitioner since it applies with effect from the date of amendment, i.e., 07.08.2015. The petitioner's eligibility; and the unamended provision regarding disqualification would apply. Thus, on account of monthly income of petitioner's brother-in-law being above Rs 6000/- per month the petitioner's candidature suffered a disqualification, as Aam Sabha was held on 24.10.2014, before the amendment.



9 Thus, the petitioner was a disqualified candidate.

10 This Court would, therefore, find that there is no reason for interfering with the impugned order/s.

11 Writ petition is dismissed.

(Madhuresh Prasad, J)

M.E.H./-

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