

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.1853 of 2016

In
Civil Writ Jurisdiction Case No.17585 of 2015

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Anjum Ara, wife of Ajmal Hussain, resident of Village- Thutthi Bagh, P.O.-
Sukhasan, P.S.- Barari, District- Katihar.

... .. Appellant/s

Versus

1. The State of Bihar, through Secretary, Social Welfare Department, Government of Bihar, Patna.
2. The Director (I.C.D.S.) of Social Welfare Department, Government of Bihar, Patna.
3. Assistant Director (I.C.D.S.) of Social Welfare Department, Government of Bihar, Patna.
4. The Joint Commissioner-cum-Secretary, Regional Transport Authority, Purnea Commissioner, Purnea.
5. District Magistrate, Katihar.
6. District Programme Officer, Katihar.
7. Child Development Project Officer, Barari Block, District- Katihar.
8. Goolsitara Khatoon, W/o Abdul Matin, resident of Village- Thutthi Bagh, P.O.- Sukhasan, P.S.- Barari, District- Katihar.

... .. Respondent/s

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Appearance :

For the Appellant/s	:	Mr. Shivendra Kishore, Sr. Advocate Mr. Nafisuzzoha, Advocate
For the State	:	Mr. Sunil Kumar Mandal, SC-3 Ms. Neelam Kumari, AC to SC-3 Mr. Bipin Kumar, AC to SC-3 Mr. Arjun Prasad, AC to SC-3
For the Private Respondent:		Mr. Rajendra Naraian, Sr. Advocate Mr. Sanjeev Kumar Singh, Advocate

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CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
and
HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE P. B. BAJANTHRI)

Date : 28-11-2022

The appellant Anjum Ara and 8th respondent
Goolsitara Khatoon were candidates for recruitment to the post



of Anganwari Sevika pursuant to the advertisement issued on 18.10.2012. The appellant has secured 80.60, whereas 8th respondent has secured 48.60. The appellant was appointed to the post of Anganwari Sevika on 02.07.2013. Feeling aggrieved and dissatisfied with the order of appointment issued in favour of the appellant Anjum Ara, 8th respondent Goolsitara Khatoon submitted representation before the District Programme Officer to cancel the order of appointment issued in favour of the appellant and to issue order of appointment in favour of 8th respondent & it was rejected.

2. In the result, 8th respondent preferred appeal before the Appellate Authority and Appellate Authority allowed the 8th respondent's appeal while setting aside the order of appointment issued in favour of the appellant on 30th July, 2015. Thus, appellant feeling aggrieved by the order of the Appellate Authority dated 30th July, 2015 invoked remedy under Article 226 of the Constitution in filing C.W.J.C. No. 17585 of 2015. The learned Single Judge dismissed the appellant's C.W.J.C. No. 17585 of 2015 on 23.08.2016, while affirming the order of the Appellant Authority's order, hence the present L.P.A by the appellant.

3. The appellant counsel vehemently contended



that both the Appellate Authority and the learned Single Judge have committed error in not noticing the case on merit. It is further submitted that no doubt, appellant's father was a Panchayat Teacher and he was drawing a sum of Rs. 6000/- per month and the same would not be a hurdle for the reasons that this Court has set aside the amended guideline 4.9 in C.W.J.C. No. 13210 of 2014. Such imposition of clause is in violation of Articles 14 and 16 of the Constitution. Further, Appellate Authority as well as learned Single Judge have not appreciated the fact that the appellant had participated before Aam Sabha.

4. Per contra, learned counsel for the respondent, State and 8th respondent submitted that there is no infirmity in the order of the Appellate Authority and order of the learned Single Judge in the light of the fact that guidelines issued in the year 2011 read with amended clause, it is a crystal clear that if a candidate's parent is working and drawing a sum of Rs. 6000/- per month, in that event such candidate is not entitled to participate in the process of selection and appointment to the post of Anganwari Sevika. The decision cited on behalf of the appellant is not applicable to the case in hand, for the reasons that appellant has not assailed the relevant portion insofar as ineligibility of a candidate whose parent is drawing Rs. 6000/-



per month.

5. Heard learned counsels for the respective parties.

6. The core issue involved in the present appeal is whether appellant has assailed the relevant clause 4.9 in the guidelines or not? and further in the absence of challenge to the aforesaid guideline is he entitled to relief on par with order passed in C.W.J.C. No. 13210 of 2014 or nor?. Undisputed facts are that the appellant and 8th respondent were candidate for the recruitment to the post of Anganbari Sewika in Advertisement dated 18.10.2012. No doubt, appellant is more meritorious than the 8th respondent. In the light of Guidelines, the appellant has been made ineligible in the light of the fact that the appellant's father was a Panchayat Teacher and drawing a sum of Rs.6000/- per month, the same would be a hurdle to participate in the process of selection and appointment to the post of Anganwari Sevika. The appellant has not assailed the relevant clause which made the appellant ineligible in the light of Appellate Authority order read with the order of the learned Single Judge. No doubt, the appellant has participated in the process of selection before Aam Sabha, however, the same has not been noticed by the Appellate Authority or learned Single Judge it is only an error even otherwise the appellant has not made out a case.



7. Accordingly, the appeal stands dismissed.

(P. B. Bajanthri, J)

(Purnendu Singh, J)

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