

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.272 of 2020

In

Civil Writ Jurisdiction Case No.7389 of 2020

Chanda Kumari Wife of Abhinandan Kumar, Resident of Village and Post Office-Upari, P.S. Ramgarh, District-Kaimur at Bhabua. ... Appellant/s
Versus

1. The State of Bihar through Principal Secretary, Social Welfare Department, Bihar, Patna.
2. The Director, Welfare (I.C.D.S.) Directorate, Social Welfare, Govt. of Bihar, Patna.
3. The Collector Cum District Magistrate, Kaimur at Bhabua.
4. The District Programme Officer (ICDS), Kaimur at Bhabua.
5. The Child Development Project Officer (C.D.P.O.) Ramgarh, District-Kaimur at Bhabua.
6. Sarita Paswan Wife of Rakesh Paswan, Resident of Village and Post Office-Upari, P.S. Ramgarh, District-Kaimur at Bhabua.

... Respondent/s

Appearance :

For the Appellant/s : Mr. Ashok Kumar Garg, Advocate
For the Respondent/s : Mr. Lalit Kishore (AG)

CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI

and

HONOURABLE MR. JUSTICE RAJIV ROY

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE RAJIV ROY)

Date : 29-08-2022

The present appeal arises out of an order dated 08.09.2020 passed by the Hon'ble Single Judge in CWJC No. 7389 of 2020 by which the writ petition preferred by the appellant- petitioner was dismissed.

2. The matrix of facts leading to the present case is/are as follows:-

(i) the appellant-petitioner claims to be a resident of Ward No. 7, village – Upari, Centre No. 147, Gram Panchayat Ahiwas, Block – Ramgarh, District – Kaimur (Bhabua)



(henceforth for short “the Ward No. 7”) is under the Scheduled caste and Scheduled Tribe category.

(ii) on 23.03.2017, an advertisement for appointment of Aganbari Sevika/Aganbari Sahiyka in ‘the Ward No. 7’ came out and pursuant thereto the appellant-petitioner also submitted her application for the post of Aganwari Sevika. On 10.04.2018 in the merit list, she found herself at Serial No. 5. However, on 25.05.2018, the Aam Sabha was suspended.

3. Aggrieved, the appellant-petitioner approached the respondent no. 4, District Programme Officer, ICDS, Kaimur at Bhabua (henceforth for short “the DPO”) vide Misc. Case No. 39 of 2018 on 26.05.2018 and the respondent no. 4 in turn vide an order dated 29.06.2018 issued directions for issuance of appointment letter to her.

4. Accordingly, on 26.11.2018, the respondent no. 5, the Child Development Project Officer, Ramgarh, Kaimur at Bhabua (henceforth for short “the CDPO”) made the concerned Aganwari Centre operational.

5. An appeal was preferred by the respondent no. 6, namely, Sarita Paswan before the respondent no. 4, ‘the



DPO' which gave rise to Anganbari Appeal No. 110 of 2018 and the same was allowed on 25.01.2019.

6. Aggrieved, the appellant-petitioner preferred Anganbari Revision Case No. 220 of 2019 before the respondent no. 3, the Collector cum District Magistrate, Kaimur at Bhabua. The said case was taken up on 18.12.2019 and although the respondent no. 3 conceded that 'the DPO' do not have any authority to review its own order yet considering the facts of the case chose not to interfere in it and the revision application was dismissed.

7. CWJC No. 7389 of 2020 came to be filed by her before the Patna High Court challenging the orders aforesaid. The Hon'ble Single Judge took up the matter on 08.09.2020 and the writ Court too acknowledged error on the part of the respondent no. 4 in reviewing its own order but chose not to interfere with the order passed by the respondent no. 3 and accordingly, the writ petition was dismissed.

8. Still aggrieved, the present appeal was preferred.

9. Heard learned counsel for the parties.

10. The limited question before this Court is whether the respondent no. 4, 'the DPO' had the power to



review its own order.

11. From the contents available in the petitions, it is clear that the respondent no.3, namely, the Collector cum District Magistrate, Kaimur at Bhabua has conceded in its order dated 18.12.2019 that the respondent no. 4 had no such power to review his own order.

12. In the opinion of this Court, the logical conclusion was to set aside the order. Instead, the respondent no. 3 dismissed the petition.

13. Learned Writ Court also took note of the said fact but chose not to interfere in the matter forcing the appellant–petitioner to prefer this appeal.

14. In the considered opinion of this Court, the respondent no. 4 (‘the DPO’) after passing an order on 29.06.2018 had no authority to pass another order on the appeal preferred by the respondent no. 6 on 25.01.2019.

15. On the said limited issue, we do not find the order dated 18.12.2019 of the respondent no. 3 (the Collector cum District Magistrate, Kaimur at Bhabua and the order dated 08.09.2020 in C.W.J.C. No. 7389 of 2020 sustainable and are accordingly set aside.

16. The matter is remitted back to the office



of the respondent no. 3 (the Collector cum District Magistrate, Kaimur at Bhabua) to consider the matter afresh after issuing notice to all the concerned parties and pass a reasoned order within three months.

17. It is made clear that we have not gone into the merits of the case and the respondent no. 3 (the Collector cum District Magistrate, Kaimur at Bhabua) will consider all the aspects relating to the case in hand before coming to his conclusion and passing the order.

18. So far as the reinstatement of the appellant-petitioner is concerned, the same will be abide by the order to be passed by the respondent no. 3 (the Collector cum District Magistrate, Kaimur at Bhabua).

19. With the aforesaid observations, the appeal stands allowed.

(P. B. Bajanthri, J)

(Rajiv Roy, J)

Jagdish/-

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