

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.121 of 2018

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Renu Yadav, wife of Ashok Singh, resident of Nakhtaul, P.O.- Dumraith, P.S.-
Bhabua, District- Kaimur.

... .. Petitioner/s

Versus

1. The State Of Bihar.
2. The Chief Secretary, Government of Bihar, Old Secretariat, Patna.
3. The Principal Secretary, Human Resources Development Department, Old Secretariat, Bihar, Patna.
4. The Director, I.C.D.S., Patna.
5. The District Magistrate, Kaimur, Bhabua.
6. The Child Development Project Officer, Bhabua.
7. Sadhana Devi, wife of Surendra Singh Yadav, resident of Village-Nakhtaul, P.S.- Bhabua, District- Kaimur.

... .. Respondent/s

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Appearance :

For the Petitioner	:	Mr. Maya Nand Jha, Sr. Advocate Mr.Radha Mohan Pandey, Advocate
For the S t a t e	:	Mr.Sunil Kumar Mandal, S.C.-3, Ms. Neelam Kumari, AC to SC-3 Mr Bipin Kumar, AC to SC-3 Mr. Arjun Prasad, AC to S.C.-3
For Respondent No.7	:	Mr. Rajeev Kumar Singh, Advocate

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CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL JUDGMENT

Date : 19-09-2022

The writ petition has been filed for quashing of order dated 13.10.2017, whereby and whereunder the Collector-cum-District Magistrate, Kaimur (Bhabua) has allowed Anganwari Appeal Case No.01 of 2015-16.

2. The brief case of the petitioner is that for selection of Anganwari Sevika at Centre No.220, applications were invited by way of advertisement. *Aam Sabha* was held on 20.04.2007,



wherein the petitioner was declared selected, having the highest marks amongst the five applicants. The selection letter was thereafter issued to the petitioner on 22.06.2007.

3. The private Respondent No.7 raised an objection regarding the petitioner's selection before the Collector disputing the petitioner's identity. Respondent No.7 asserted that petitioner is not the wife of Ashok Singh. She has thus participated in the selection process by resorting to falsehood and therefore is not entitled to continue on the basis of such selection. The Collector rejected the complaint filed by Respondent No.7 on 06.11.2007.

4. The Collector's order was assailed by the private Respondent No.7 in CWJC No.17117 of 2008. The writ application was disposed of granting liberty to the petitioner to file appeal/representation before the Collector and/or revision before the Commissioner, if not already filed. This Court directed for consideration and disposal of the appeal/representation by a reasoned and speaking order, in accordance with law.

5. The private Respondent No.7 filed Appeal Case No.24 of 2011 in the court of learned Divisional Commissioner, Patna, being the competent appellate authority under the 2011 Guidelines. The appeal was forwarded by the Divisional



Commissioner to the Deputy Director, Welfare, Patna Division and thereafter to the District Magistrate, Kaimur.

6. The effect of such movement of the file is that the Collector, Kaimur at Bhabua was hearing an appeal preferred against the order dated 06.11.2007 passed by his predecessor Collector.

7. The petitioner thus filed a petition raising an issue of maintainability of the appeal before the Collector, Kaimur, Bhabua against an order passed earlier by the Collector, Kaimur, Bhabua. The petitioner also stated in the appeal that securing the highest marks 66.83, she was selected at the *Aam Sabha* held on 20.04.2007 as she was belonging to the predominant Backward Class category and therefore, there was no reason for interfering with the petitioner's selection.

8. The Collector under the impugned order, however, has allowed the appeal and cancelled the petitioner's selection as Anganwari Sevika. Operative part of the order passed by the Collector read as follows :

“Heard the learned counsels of the parties in details as well as the learned Govt. Pleader, Kaimur and carefully perused the record of this case and material available in the record and report of the CDPO, Bhabua found that the Am Sabha without carefully perusal of the certificates of the OP No.08 selected her. All persons present in the Am Sabha were local and within the poshak



chhetra but they also committed the error in selection of the OP No. 08. The OP No. 08 is not in poshak chhetra also. Deputed enquiry committee also found that the OP No. 08 is illiterate lady and she only knows to put her signature. The enquiry committee taken written examination of the OP No. 08 but she did not write a single word before them. The OP No. 08 after taking the educational certificates of another lady and disclosed her as Renu Yadav before the Am Sabha succeeded in selection for the post of Anganbari Sevika as reported by the CDPO, Bhabua in her report submitted before the court. Basically the OP No. 08 is daughter of one Jhabbar Yadav of Village Chaudharna under Adhaura Block.

On the basis of the aforesaid conclusion I allowed the present appeal of the appellant Sadhana Devi and further I order to cancel the selection of the OP No. 08 Renu Yadav as Anganbari Sevika of Nakhtaul Anganbari Kendra. The CDPO Bhabua is directed to remove the OP No. 08 Renu Yadav as Anganbari Sevika of Nakhtaul Centre and engage the appellant as Anganbari Sevika for the Anganbari Kendra Nakhataul immediately after getting this order. The office is directed to return the lower court records to the concerned offices with the copy of this order.”

9. The petitioner’s counsel submits that apart from the order being unsustainable on ground of maintainability, the order is also unsustainable for being based on a procedure in violation of principles of natural justice and also on basis of presumptions and assumptions. The order relies upon the report by CDPO, Bhabua under letter dated 12.10.2017. However, there is nothing on the record to show that the alleged report of the CDPO, Bhabua wss



served on the petitioner. The District Magistrate has also recorded in his order that the petitioner was an illiterate lady and she only knew to put her signature and thus has doubted the petitioner's educational testimonials.

10. The learned counsel for the petitioner therefore draws attention of this Court towards earlier order dated 05.11.2018 passed in the instant proceedings by the earlier Bench hearing the matter, which reads as follows:

“This Court vide order dated 10.10.2018 directed the petitioner to present herself before this Court and her test of literacy will be conducted in the Court itself.

Today Renu Yadav is present, produced her identity card as well as Aadhar Card and my Secretary, namely, Vinay Kumar Singh has dictated certain Hindi passage from page no.30 of the brief which she has taken before all the parties including counsel for the respondent.

As has been claimed by the respondent that she is not original Renu Yadav but she has obtained certificate from another lady.

Let the writing of Renu Yadav along with photocopies of identity card and Aadhar Card be kept on record which will be treated to be the part of record.

Let this case be listed on 27th November, 2018 under the same heading.”

11. It is further submitted that since heavy reliance has been placed on the alleged report dated 12.10.2017 by the CDPO



and the same has not been served upon the petitioner, the order passed by the Collector is unsustainable.

12. Regarding allegations with respect to petitioner's date of birth, it is submitted that her date of birth is 12.05.1980, however, the difference of 15 days in the date of birth has emerged in the date recorded in her educational certificate with that which has been recorded in her Aadhar Card. It is submitted that the same is apparently a mistake committed while entering the date of birth of the petitioner by the Aadhar authority.

13. Counsel for the private Respondent No.7 submits that the petitioner's candidature in the process of selection was based on a false date of birth. As per Annexure P 2 of the writ petition, i.e., High School marksheet issued by Madhyamik Shiksha Parishad, Uttar Pradesh, the petitioner's date of birth is 12.05.1980 whereas in the Aadhar Card the same has been mentioned as 27.05.1980. He has also referred to the BPL list for Panchayat-Nakhtaul wherein one Meera Devi has been shown as wife of Ashok Singh. It is thus submitted that the petitioner's claim of being the wife of Ashok Singh is unsustainable.

14. Considering the rival submissions, this Court would find that the consideration and decision rendered in the impugned order by the Collector, Kaimur, Bhabua is unsustainable for the



simple reason that while functioning as an appellate authority, the Collector has considered and decided the appeal passed against his predecessor-in-office, namely, Collector, Kaimur, Bhabua. Such exercise of jurisdiction as appellate authority by the original authority cannot be sustained by any stretch of imagination. Having said so, this Court would further find that from the impugned order passed by the Collector, it is obvious that heavy reliance has been placed on the alleged report of the CDPO dated 12.10.2017, however, there is no whisper in the order that the same was ever served on the petitioner.

15. The Collector in his order at page 2 has recorded “.....after conclusion of the final argument on 12.10.2017 the parties were directed to submit their respective documents in their support” At the very next page, the Collector has proceeded to record “.....In her report the CDPO, Bhabua vide her letter no.544 dated 12.10.2017 fully disclosed the matter.....”

16. Thus, it is apparent from the order of the Collector that either during or after the final argument on 12.10.2017, the CDPO's report under letter dated 12.10.2017 has been received by the Collector. At best, it can be said that the report has been received by the Collector on the date of the final argument.



17. This Court would thus have no doubt in concluding that the report of the CDPO, Bhabua was not served on the petitioner, although heavy reliance has been placed by the Collector on the said report while interfering with the petitioner's selection as Anganwari Sevika. Such lapses in the proceedings strike at the root of fairness. At least, the petitioner was required to be given a copy of the report dated 12.10.2017 alleged to have been submitted by the CDPO, Bhabua, so as to enable her to get an opportunity to make her submissions with respect to the report.

18. Thus, procedural lapses are sufficient, in the opinion of this Court, to conclude that the impugned order of the Collector is unsustainable. The order dated 13.10.2017 passed by the Collector in Anganwari Appeal Case No.01 of 2015-16 is hereby quashed.

19. Writ petition is allowed.

(Madhuresh Prasad, J)

PNM

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	
Transmission Date	N.A.

