

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.1365 of 2018

In
Civil Writ Jurisdiction Case No.11287 of 2014

Subhadra Kumari @ Subhadra Devi Wife of Manoj Kumar Yadav, resident of
Village- Saidalli, P.O.- Mai Farida, Police Station- Rahui, District- Nalanda.
... .. Appellant/s

Versus

1. The State Of Bihar through the Principal Secretary, Social Welfare Department, Government of Bihar, Patna.
2. The Director, Integrated Child Development Scheme, Bihar, Patna.
3. The Divisional Commissioner, Patna Division, Patna.
4. The District Magistrate, Nalanda at Bihar Sharif.
5. The District Welfare Officer, Nalanda at Bihar Sharif.
6. The District Programme Officer, Nalanda at Bihar Sharif.
7. The Child Development Project Officer, Sadar, Block- Bihar Sharif.
8. The Child Development Project Officer, Block- Rahui, District Nalanda at Bihar Sharif.
9. The Mukhiya, Gram Panchayat, Mai Farida, Block- Rahui, District - Nalanda at Bihar Sharif.
10. Smt. Sangeeta Kumari, Wife of Chaudhary Sachidanand Badal @ Birmani Chaudhary, resident of Village- Basak Saidi, P.O.- Mai Farida, P.S.- Rahui, District Nalanda at Bihar Sharif.
11. Priyanka Kumari, Wife of Sanjay Kumar, resident of Village- Saidalli, P.O.- Mai Farida, P.S.- Rahui, District- Nalanda.

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Prashant Sinha, Advocate
For the Respondent/s : Mr.Gyan Prakash Ojha, Advocate

CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
and

HONOURABLE MR. JUSTICE RAJIV ROY

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE RAJIV ROY)

Date : 13-07-2022

Heard learned counsel for the parties.

2. The appellant is aggrieved by the order dated
21.08.2018 passed by the learned Single Judge in CWJC



No.11287/2014 by which it chose not to interfere with the order dated 25.09.2010 passed by the District Magistrate, Nalanda in Aanganbari Case No.35 of 2010 in the Appeal No.102 of 2011 as also the order dated 03.06.2014 passed by the Commissioner, Patna Division, Patna by which the order of the District Magistrate was affirmed.

3. The facts as stated/submitted by the appellant in the present appeal is/are as follows:

4. On 15.11.2004, the 'Aam Sabha' was held for the selection of 'Aaganbari Sevika' for 'Basak Saidi Aaganbari Center'. The appellant-petitioner was one of the candidate for the said selection process. In the said 'Aam Sabha', respondent no.10 namely Sangeeta Kumari was selected as 'Aanganbari Sevika'.

5. On 20.11.2004, no appointment letter was issued by the C.D.P.O.,Rahui to the respondent Sangeeta Kumari on the ground that the 'Mukhiya' was not a signatory to the said proceeding. On 16.12.2004, the 'Mukhiya' convened another 'Aam Sabha' in which the appellant-petitioner was selected as the 'Aanganbari Sevika'. Accordingly appointment letter was issued to her on 28.12.2004 whereafter the appellant-petitioner joined the post on 05.01.2005.



6. The said Sangeeta Kumari took the matter before the District Magistrate, Nalanda who vide an order dated 25.09.2010 held:

(i) it is fact that Sangeeta Kumari could not have been appointed as she belongs to the SC category whereas the center is predominant BC category;

(ii) however the 'Mukhiya' was completely wrong in cancelling the earlier 'Aam Sabha' held in November, 2004 and convene a fresh 'Aam Sabha' on 16.12.2004 without seeking any guidelines from the higher authorities which was not in line with the Rules of the 'Aaganbari' Sevika / Sahayika Guidelines.

7. Accordingly, the District Magistrate, Nalanda cancelled both the 'Aam Sabha's held on 15.11.2004 as well as 16.12.2004 with the further direction to the Child Development Project Officer, Rahui to take the matter afresh in line with the Rules/Guidelines (Annexure-1 to the writ petition).

8. Aggrieved by the said order of the District Magistrate, Nalanda the appellant-petitioner herein preferred appeal before the Divisional Commissioner, Patna Division, Patna vide Misc.



Appeal No.102/2011. The same was heard and vide a reasoned order dated 03.06.2013 the Commissioner Patna chose to reject her appeal.

9. The appellant-petitioner thereafter preferred CWJC No.11287/2014 challenging the orders of the District Magistrate, Nalanda and the Divisional Commissioner, Patna Division, Patna. The matter was taken up by the learned Single Judge on 21.08.2018 and after hearing the parties the Court held as follows:

“This court would find from the order of the District Magistrate, Nalanda as well as the order of Divisional Commissioner, Patna Division, Patna that by Aam Sabha dated 15.11.2004 selection of the earlier Anganbari Sevika was held to be illegal and was cancelled and the petitioner was selected in her place.

Both the authorities, i.e. District Magistrate as well as Divisional Commissioner have considered this aspect and found that there was no illegality in the selection of the earlier Anganbari Sevika. The authorities have also considered that, even if there was any allegation against selection of the earlier Anganbari Sevika, the same could not be examined by a subsequent Aam Sabha. This cancellation of earlier selected candidate has been found, not to be in accordance with the established procedure. The various guidelines, consistently provide that if there is any irregularity in the process of selection of Anganbari Sevika, same would be decided by



the higher authority. Various guidelines have been issued from time to time. None of them provide that validity of selection of Anganbari Sevika by one Aam Sabha is to be looked into and decided by subsequent Aam Sabha. That being so the proceedings of the subsequent Aam Sabha dated 15.11.2004 wherein earlier Anganbari Sevika had been removed and in her place, the petitioner has been selected rightly has been set aside by the authorities.”

10. The learned Single Judge thus dismissed the writ petition vide the aforesaid order dated 21.08.2018.

11. Still aggrieved, the present appeal was preferred by the appellant-petitioner. The plea taken by her in the present appeal is/was the same i.e.

- (i) the District Magistrate, Nalanda committed error in cancelling the ‘Aam Sabha’ dated 16.12.2004 on the ground that no guidelines was sought for before convening the said ‘Aam Sabha’;
- (ii) the decision of the respondent authorities is/are against the spirit of the local State Government;
- (iii) as the decision of the ‘Aam Sabha’ dated 15.11.2004 was not approved and



subsequent 'Aam Sabha' convened on 16.12.2004, the appellant-petitioner was selected who worked for five years, the learned Single Judge erred in passing an order with the direction for her reinstatement.

12. Heard learned counsels for the parties.

13. We have gone through the minutes of the proceedings of the 'Aam Sabha' held on 16.12.2004. It is to be noted that besides the fact that the said 'Aam Sabha' was convened by the 'Mukhiya' on 16.12.2004 without any approval or guidelines issued by the concerned Government Authorities, it further transpire from the minutes of the proceeding that although as per the merit list, one Rekha Kumari was on the top of the list and thus should have been issued the letter of appointment, the 'Aam Sabha' unanimously decided to select the appellant-petitioner herein.

14. When confronted with the aforesaid facts with the learned counsel for the appellant he failed to provide any plausible explanation on deliberate omission of the selection of the said Rekha Kumari except submitting that the unanimous decision of the 'Aam Sabha' in selecting the appellant should have been



respected. The said submission made by the learned counsel for the appellant is fit to be rejected as on the face of it, we find that the rightful claim of the said Rekha Kumari was ignored only to choose the appellant herein as 'Aanganbari Sevika'.

15. We thus hold that the District Magistrate, Nalanda in its order dated 25.09.2010 rightly held that without taking approval of the superior officers and /or guidelines issued by the Government, the 'Mukhiya' wrongly held another 'Aam Sabha' on 16.12.2004 where ignoring the claims of the other meritorious candidates, the appellant herein was chosen. He was further justified in cancelling the said recommendation made by the 'Aam Sabha' on 16.12.2004.

16. Again the Commissioner, Patna Division, Patna vide its order dated 03.06.2004 was justified in upholding the order of the District Magistrate, Nalanda after observing that the appellant herein accepted that she was not the best candidate in the said 'Aam Sabha' of 16.12.2004 but still justified her selection which was against the Departmental Rules and Regulations.

17. It is lastly held that the learned Single Judge after going through the records was fully justified in passing the order dated 21.08.2018 dismissing the writ petition bearing CWJC No.11287/2014.



18. The counsel for the appellant-petitioner has failed to bring to our notice any infirmity in the order passed by the learned Single Judge. The appeal thus fails and is accordingly dismissed.

(P. B. Bajanthri, J)

(Rajiv Roy, J)

Prakash Narayan /-

AFR/NAFR	NAFR
CAV DATE	NA
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