

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Letters Patent Appeal No.1675 of 2018**

**In**  
**Civil Writ Jurisdiction Case No.16092 of 2010**

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Sangita Kumari, W/o-Shivendra Kumar Mahato, R/o-Village-Simra (Bhanak Tola), P.S.-Pear, District-Muzaffarpur.

... .. Appellant/s

Versus

1. The State of Bihar.
2. The Commissioner, Trihut Division, Muzaffarpur.
3. The District Magistrate, Muzaffarpur.
4. The District Welfare Officer, Muzaffarpur.
5. The District Programme Officer, Muzaffarpur.
6. The Block Development Officer, Bandra, Muzaffarpur.
7. The Child Development Project Officer, Bandra, Muzaffarpur.
8. The Mukhiya, Gram Panchayat, Simra, Block Bandra, District-Muzaffarpur.
9. Smt. Sushila Devi, W/o Dinesh Prasad, R/o-Simra (Bhanak Tola), P.S.-Pear, District-Muzaffarpur.

... .. Respondent/s

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**Appearance :**

For the Appellant/s : Mr. Sanjeev Kumar, Advocate  
For the Respondent/s : Mr. Gyan Prakash Ojha, GA-7  
Mr. Raju Kumar, Advocate

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**CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI**  
**and**  
**HONOURABLE MR. JUSTICE RAJIV ROY**  
**ORAL JUDGMENT**  
**(Per: HONOURABLE MR. JUSTICE RAJIV ROY)**

**Date : 13-10-2022**

**I.A. No. 01 of 2019**

Heard the parties.

For the reasons assigned in the Limitation Petition, the  
delay of 90 days in filing the appeal is condoned. Limitation  
Petition No.01/2019 is allowed.



**L.P.A. No. 1675 of 2019**

Heard counsel for the parties.

2. Pursuant to the order dated 22.09.2022, Mrs. Nitu Singh, the Child Development Project Officer, Bandra, Muzaffarpur, is present in the Court with records relating to the case.

3. The appeal arises out of an order dated 31.07.2018 passed by the learned Single Judge in CWJC No.1609 of 2018 by which the writ petition filed against the order dated 02.08.2010 by the Commissioner, Tirhut Division, Muzaffarpur was not interfered with and the writ petition was dismissed.

4. The matrix of facts leading to the present appeal is/are as follows:

5. The appellant-petitioner was working as an 'Aanganbari Sahayika' at Center No.24 under respondent no.7, the Child Development Project Officer, Bandra, Muzaffarpur (henceforth the short 'the C.D.P.O.') since 06.05.1997.

6. Later in the year 2009, out of Center No.24, a new Center No.26 was created after the mapping of the area was prepared. The house of the appellant-petitioner remained under Center No.24.



7. On 16.03.2007, there was an advertisement for the post of 'Aanganbari Sevika' for the Center No.26. The appellant-petitioner submitted her application as also the respondent no.9, Sushila Devi. Accordingly, the merit list was prepared on 17.03.2007. (Anneuxre-2 to the writ petition).

8. As the appellant-petitioner remained under Center No.24, her candidature was rejected by the "Aam Sabha". Aggrieved, she preferred C.W.J.C. No.13785/2007 which was disposed of on 18.12.2009 with a direction to represent before the respondent no.3, the District Magistrate, Muzaffarpur. (Annexure-4 to the writ petition).

9. The matter was accordingly considered by the respondent District Magistrate, Muzaffarpur who directed 'the C.D.P.O.' to submit a report after spot verification. Accordingly, the report was submitted on 01.05.2010 and on the basis of mapping register, the resident of the appellant-petitioner was shown to a resident of Center No.24.

10. The District Magistrate, Muzaffarpur, not being satisfied with the report of 'the C.D.P.O.' directed the respondent no.5, the District Programme Office, Muzaffarpur (henceforth for short 'the DPO') to submit fresh report. Accordingly, 'the DPO' submitted a new report on 04.05.2010 and



thereafter the District Magistrate, Muzaffarpur on the basis of the said report on 30.06.2010 after holding that since the house of the appellant-petitioner is nearer to Center No.26 gave direction was for the cancellation of the candidature of Shushila Devi with further direction to appoint the appellant-petitioner. (Annexure-6 to the writ petition)

**11.** Respondent No.9, Shushila Devi, preferred appeal before respondent no.2, the Divisional Commissioner, Tirhut Division, Muzaffarpur. The matter was heard and vide an order dated 31.07.2010, the Divisional Commissioner set aside the order dated 30.06.2010 of the District Magistrate, Muzaffarpur with further direction for selection of Sushila Devi for the said post of 'Aanganbari Sevika'.

**12.** It was in the aforesaid circumstance, that the Writ Petition No.16092 of 2010 was preferred by the appellant-petitioner. The matter was heard at length and the learned Single Judge vide an order dated 31.07.2018 rejected the claim of the appellant-petitioner holding as follows:

*"5. I find from the impugned order dated 02.08.2010 that since the petitioner is working as Sahaika at Centre No. 24 on the strength of her being a resident of the said area, her claim for*



*appointment at Center No. 26 has been found to be not entertainable. On the contrary, the private respondent, namely, Mrs. Sushila Devi has not only got more marks than the petitioner herein but also belongs to the backward class and her selection has been made unanimously.*

*6. Having regard to the facts and circumstances of the case, I do not find any error in the impugned order dated 02.08.2010 passed by the Commissioner, Tirhut Division, Muzaffarpur, hence, the present writ petition is dismissed.”*

**13.** Still aggrieved, the appellant-petitioner preferred the present appeal.

**14.** Heard counsel for the parties.

**15.** The matter was taken up on several occasion and finally on 22.09.2022, the following order was passed:

*“Despite the matter is adjourned for ten times State counsel could not apprise this Court with the material information. Therefore, CDPO, Bandra, Muzaffarpur, appointing authority to the*



*post of Anganwari Sevika is hereby directed to appear along with the complete records.*

*It is made clear that no further time would be granted.*

*Relist this matter on 13.10.2022.”*

**16.** It was in the aforesaid circumstance that ‘the C.D.P.O.’ is present before the Court with the original records.

**17.** ‘The C.D.P.O.’ on the basis of the original records clarified that:

(i) earlier it was Center No.24 in which the appellant-petitioner was serving as an ‘Aanganbari Sahayika’;

(ii) later, in March 2007, a new Center No.26 was carved out of the said Center No.24 and as per the mapping register, the house of appellant-petitioner remained under the old Center No.24;

(iii) the appellant-petitioner never challenged the non-inclusion of her home in the Center No.26;



(iv) she, however, preferred her application for selection as 'Aanganbari Sevika' for the Center No.26;

(v) her candidature was accordingly rejected by the "*Aam Sabha*" in view of the fact that her house does not fall under Center No.26, rather the same is in Center No.24;

(vi) accordingly, Sushila Devi was appointed.

**18.** Having heard the parties at length, we are of the considered view that:

(i) the admitted fact is that in the mapping register, when the Center No.26 was carved out of Center No.24, the house of the appellant-petitioner remained in the Center No.24 where she was working as an 'Aanganbari Sahayika';

(ii) there was no occasion for her to apply for the post of 'Aanganbari Sevika' for the Center No.26 unless her house was included in the said center;

(iii) the "*Aam Sabha*" as such rightly rejected her candidature and selected



respondent respondent no.9 Sushila Devi as the  
'Aanganbari Sevika'.

(iv) the District Magistrate,  
Muzaffarpur erred in ignoring the report of  
'the DPO' and vide an order dated 30.06.2010  
allowed her application;

(v) the Commissioner, Tirhut  
Division, Muzaffarpur rightly set aside the  
order of the District Magistrate, Muzaffarpur  
vide its order dated 02.08.2010.

**19.** It is further reiterated that the respondent no.2,  
Divisional Commissioner, Tirhut Division, Muzaffarpur, had  
rightly recorded the facts and gave direction for the selection of  
respondent no.9, Sushila Devi vide its order dated 02.08.2010  
while setting aside the order passed by the respondent District  
Magistrate, Muzaffarpur on 30.06.2010.

**20.** Further, the learned Single Judge vide its order  
dated 31.07.2018 had rightly chosen not to interfere with the order  
of the Divisional Commissioner, Tirhut Division, Muzaffarpur  
having found no error in the impugned order dated 02.08.2010  
and thus dismissed the writ petition.



**21.** We do not find any infirmity in the order dated 31.07.2018 of the learned Single Judge, the appeal fails and the same is accordingly dismissed.

**(P. B. Bajanthri, J)**

**( Rajiv Roy, J)**

Prakash Narayan /-

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