

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3847 of 2017

Babita Kumari wife of Kamlesh Prasad Yadav, resident of Village, P.O.-
Kothara, P.S.- Hayaghat, District- Darbhanga.

... .. Petitioner/s

Versus

1. The State Of Bihar and Ors
2. Principal, Secretary, Department of Social Welfare, Government of Bihar,
Patna.
3. Commissioner, Darbhanga Division, Darbhanga.
4. District Magistrate, Darbhanga.
5. Child Development Project Officer, Baheri, District- Darbhanga.
6. Nilam Kumari, wife of Ramshankar Roy, resident of Village- Kothara, P.S.-
Hayaghat, District- Darbhanga.

... .. Respondent/s

with

Civil Writ Jurisdiction Case No. 14834 of 2017

Neelam Kumari D/o Rampukar Yadav, W/o Ram Shanker Roy, Resident of
Village- Kothra, Panchayat- Hathuari North Block- Bahari, P.S.- Hayaghat,
District- Darbhanga.

... .. Petitioner/s

Versus

1. The State Of Bihar and Ors
2. The Secretary, Bihar Sanskrit Shiksha Board, Patna.
3. The Director, ICDS Department of Welfare, Govt. of Bihar, Patna.
4. The District Magistrate cum Collector, Darbhanga.
5. The C.D.P.O. Baheri Block, Darbhanga.
6. The Public Information Officer, Sanskrit Shiksha Board, Bihar, Patna.
7. Shambhu Prasad, the then Mukhiya of Gram Panchayat Raj, Hathauri,
Baheri, Darbhanga, S/o Yugeshwar Roy, Resident of- Kothra, P.O.- Kothra,
Block- Baheri, P.S.- Hayaghat, District- Darbhanga.
8. Panchayat Secretary, Gram Panchayat Raj Hathauri North, Block- Baheri,
Darbhanga.
9. Sabita Devi, W/o- Kapileshwar Yadav @ Kapildev Yadav. Resident of
Village- Kothra, P.O.- Kothra, P.S.- Hayaghat, District- Darbhanga.
10. Gunand Yadav @ Ghunand Yadav, S/o Ramrup Yadav, Resident of Village-
Kothra, P.O.- Kothra, P.S.- Hayaghat, District- Darbhanga.
11. Babita Kumari, W/o Kamlesh Prasad Yadav, Resident of Village- Kothra,
P.O.- Kothra, Block- Baheri, P.S.- Hayaghat, District- Darbhanga.

... .. Respondent/s

Appearance :

(In Civil Writ Jurisdiction Case No. 3847 of 2017)

For the Petitioner/s	:	Mr. Niranjan Kumar, Advocate Mr. Kumar Kishan, Advocate Mr. Avinash Raushan, Adv
For the Respondent/s	:	Mr. G.P. Ojha- GA7



Mr. Abhishek Singh, AC to GA-7
(In Civil Writ Jurisdiction Case No. 14834 of 2017)
For the Petitioner/s : Mr. Prahalad Kumar Bhagat
For the Respondent/s : Mr. G. P. Ojha -GA-7
Mr. S.S. Sundaram, Advocate
Mr. Shashank Shekhar Jha, Advocate

CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

13 18-08-2022

Re: CWJC No. 3847 of 2017

Heard learned counsel for the petitioner and the learned
State counsel.

The petitioner is aggrieved by cancellation of her
selection as Anganwadi Sevika, which has been cancelled by the
impugned orders.

The writ application has been filed for the following
relief:

*“For issuance of appropriate writ/writs,
order/orders, direction/directions for setting aside the
order dated 6.11.2014 passed by the District Magistrate,
Darbhanga in Case No.55/2010-11 by which the learned
Collector-cum-District Magistrate, Darbhanga hold that
the selection of petitioner in Anganbari centre no.124
Yadav Tola Kothara is not as per guideline laid down in
2006 Circular particularly clause 03(Da) and thus
decision of the Aam Sabha dated 4.11.2009 is not proper
and the same is being cancelled and the Child*



Development Project Officer is directed to make a fresh selection of the said Anganbari Centre no.124 Yadav Tola Kothara as well as order dated 31.1.2017 passed by the Commissioner, Darbhanga Division Darbhanga in Anganbari Appeal no 9/14 which was preferred by the petitioner against the order of the District Magistrate, vide order dated 31.1.2017 by which he dismissed the said appeal only on the ground that the engagement was against the provision of clause 3(Da) of 2006 guideline”

Specific ground, on which the petitioner’s selection has been cancelled, is that her father at that point of time was a *hawaldar* in the Bihar Police and since Clause 3 (ड़) of the admittedly applicable Anganwadi Sevika/Sahayika Appointment Guidelines, 2006 (hereinafter referred as “2006 Guidelines”), barred the petitioner’s candidature.

Clause 3 (ड़) of the 2006 Guidelines reads as follows:

“(ड़) लोक सेवकों (मुखिया, पंचायत समिति के सदस्य/वार्ड सदस्य/जिला परिषद् के सदस्य आदि स्वयं या उनके रिश्तेदार) विभिन्न सरकारी सामग्रियों के विक्रेताओं (जैसे जन वितरण प्रणाली विक्रेता , घुमन्तु किरासन तेल के विक्रेता (Dealer), अन्तरविभागीय डाकखाना कर्मी (Intra-



departmental Post Office Employee इत्यादि) सरकारी एवं अर्द्धसरकारी सेवकों के रिश्तेदार यथा, बेटी/पत्नी/पुत्रवधू/पौत्रवधू का चयन इस पद के लिए नहीं किया जायेगा।"

The petitioner's counsel has drawn attention of this Court towards Annexure 3, which is a decision of District Magistrate, Darbhanga dated 24.07.2017. Relying on the same, petitioner's counsel submits that the District Magistrate in 2017 had clarified that even daughter of a government servant would be considered for and selected as Anganwadi Sevika.

From the order impugned, it is apparent that the said decision/clarification of the District Magistrate has not been placed before the authorities.

The petitioner's counsel has submitted that since the clarification issued by the District Magistrate under Clause 13 of the 2006 Guidelines is in existence, the petitioner's exclusion was unsustainable.

Clause 13 of the 2006 Guidelines, relied upon by the petitioner, reads as follows:

“13. अन्याय :- ऑगनबाड़ी सेविका/सहायिका के चयन

संबंधी उपरोक्त दिशा निर्देश से अलग चयन संबंधी कोई भी



दृष्टांत या मामला प्रकाश में आता है तो वैसी स्थिति में तथ्यात्मक प्रतिवेदन, जिला पदाधिकारी के माध्यम से निदेशक आई० सी० डी० एस० को भेजना अनिवार्य होगा। निदेशक आई० सी० डी० एस० समीक्षोपरांत उन विशेष मामलों के संदर्भ में आवश्यक दिशा निर्देश निर्गत करेंगे।

आँगनवाड़ी सेविका/सहायिका के चयन संबंधी पूर्व के सभी विभागीय दिशा-निर्देशों को इस हद तक संशोधित करते हुये इसे तात्कालिक प्रभाव से लागू किया जाता है।"

It is apparent from the bare reading of the clause that clarification of the nature specified in clause 13 could only have been issued at the level of Directorate, I.C.D.S, which admittedly has not been done.

There is no basis for the petitioner to assail the impugned order as the fact that her father at that point of time was a *hawaldar* in the Bihar Police, is not denied or disputed.

The writ application is devoid of merit and is dismissed.

Re: CWJC No. 14834/2017

The petitioner, being the third empanelled candidate, has sought her selection as Anganwadi Sevika and assailed the



order of District Magistrate dated 06.11.2014, rejecting the petitioner's appeal against the order passed in Case No. 95/2010-11 in the case of one Savita Devi vs. the Govt of Bihar Ors.

The District Magistrate has rejected the petitioner's claim by assigning a reason that since petitioner's father was beneficiary having a Public Distribution System (PDS) outlet, her candidature was barred under Clause 3 (ढ़) of the 2006 Guidelines.

This Court has put a specific query on the petitioner's counsel, as to whether petitioner has disputed the fact that her father was beneficiary of PDS distribution outlet.

Counsel for the petitioner has not been able to show that any such assertion has been made before the District Magistrate before passing the order on 06.11.2014.

In view thereof, writ petition assailing the order of the District Magistrate is devoid of merit. The writ application is dismissed as no infirmity can be alleged in the order passed by the District Magistrate.

(Madhuresh Prasad, J)

SUMIT/-

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