

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.448 of 2018

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Sunita Devi, Wife of Shri Harikant Tanti, Resident of Village- Neema (Mubarakpur), Ward No.-5, Panchayat- Sabalbigaha, P.O.- Bahramba, Block and P.S.- Sikandara, District- Jamui Bihar.

... .. Petitioner

Versus

1. The State of Bihar
2. Principal Secretary, Deptt. of Social Welfare, Govt. of Bihar, Patna.
3. Director, Integrated Child Development Scheme, Govt. of Bihar, Patna.
4. District Magistrate-cum-Collector, Jamui.
5. District Programme Officer (D.P.O. Jamui,
6. Child Development Project Officer C.D.P.O., Sikandra, Jamui.
7. Lucy Kumari, Wife of Shri Nawal Kumar, Resident of Village- Neema (Mubarakpur), Ward No.-5, Panchayat- Sabalbigaha, P.O.- Bahramba, Block and P.S.- Sikandara, District- Jamui (Bihar).

... .. Respondents

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Appearance :

For the Petitioner	:	Mr. Rajendra Narayan, Sr. Adv with Mr. Anant Kumar Sinha, Adv.
For the State	:	Mr. S.K.Mandal – SC3
For the Resp. No.7	:	Mr. S.P. Parasar, Adv.

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CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
CAV JUDGMENT

Date : 06-12-2022

Heard learned counsel for the petitioner, learned counsel for the private respondent No.7 and learned counsel for the State.

2. The District Magistrate-cum-Collector, Jamui, on a complaint made by respondent No.7, has directed the petitioner to file the admit card, in original based on which, she claims to have appeared at the *Madhyama* examination, and also for constitution of a Medical Board, to ascertain the age of the petitioner (working



Sevika). This order dated 01.12.2017 is assailed by the petitioner in the instant proceedings .

3. The brief factual background is that on 19.12.2012, Center No. 152, *Neema Mubarakpur* in the *Sabal Bigha Panchayat* of Sikandara Block was advertised along with other centers for selection of *Anganwari Sevika* and *Sahayika*. The petitioner had applied. She was placed in the merit list at 1st position having merit marks 72. The respondent No.7 was placed at Serial No.2 with merit marks 69.8. The Respondent No.7 lodged a complaint alleging that the petitioner's *Madhyama* Certificate is false. The petitioner appeared and the *Madhyama* certificate was verified and found to be genuine, as per report of the District Programme Officer, Jamui, (for brevity 'DPO' Jamui) dated 21-02-2015, as contained in Annexure-2 to the writ petition.

4. Thereafter, the matter was referred to the *Aam Sabha* of the *Panchayat* on 16.06.2014 where respondent No.7 again challenged the petitioner's candidature based on Date of Birth. The DPO, Jamui, thereafter, having considered the fact that the petitioner's certificate was earlier verified, directed the Child Development Project Officer, Sikandara (for short 'CDPO, Sikandara') that the petitioner's selection can be proceeded with. Accordingly, the petitioner was issued a selection letter dated



08-07-2015 and has since been discharging the responsibilities of *Anganwari Sevika* for center No. 152.

5. The respondent No.7, on the other hand, continued to challenge the petitioner's candidature at various levels. She also filed a Service Appeal No. 51/29 of 2015 before the Deputy Director, Welfare, Munger, alleging that the petitioner had obtained selection on the basis of wrong Date of Birth. The appeal later came to be transferred to Collector, Jamui and the appeal was dismissed allowing the private respondent No. 7 to approach the DPO.

6. The respondent No.7, thereafter filed a complaint before the DPO, Jamui bearing Complaint No.15/2016. The complaint of the respondent No.7 regarding forged and fabricated Educational certificate containing wrong Date of Birth was dismissed. The DPO found that the petitioner's Date of Birth 14-03-1986, recorded in the certificate issued by the *Bihar Sanskrit Shiksha Board* bearing No. 0181407 has already been verified and, therefore, the complaint regarding the certificate and Date of Birth is without any basis. The complaint was thus, rejected by the DPO, under order dated 07-04-2017, as contained in Annexure-5 to the writ petition.



7. The DPO's order was assailed before the District Magistrate-cum- Collector, Jamui, in Service Appeal No. 2 of 2017, wherein, the impugned order directing for ascertaining the petitioner's age by a Medical Board to be constituted, has been passed.

8. The learned senior counsel appearing for the petitioner has submitted that the issue had already been verified and verification accepted by the CDPO, Sikandara as well as DPO, Jamui. In the circumstances, constitution of a Medical Board to ascertain the age of the petitioner is wholly unwarranted. The complaints are being made by private respondent on extraneous consideration repeatedly at all levels. It is also submitted that the ICDS letter dated 9-5-2012, provides in Clause 1 (ख), as follows:-

“1(ख) जन्म तिथि/उम्र का निर्धारण निम्न तरीके से किया जायेगा:-

(i) मैट्रिक या उच्चतर योग्यताधारी सेविका /सहायिका की जन्म तिथि, उनके मैट्रिक अथवा समकक्ष परीक्षा उत्तीर्ण प्रमाण-पत्र में अंकित जन्म तिथि माना जायेगा।

(ii) नन् मैट्रिक सेविका/ सहायिका का जन्म तिथि उनके शैक्षणिक योग्यता सम्बन्धी प्रमाण-पत्र स्कूल परित्याग प्रमाण पत्र को माना जायेगा।

(iii) वैसी साक्षर सहायिका जिसके पास शैक्षणिक या सरकारी जन्म प्रमाण-पत्र आदि उपलब्ध न हो वैसे मामलों में आयु का निर्धारण मेडिकल बोर्ड द्वारा कराया जायेगा। ”



9. As per decision of the ICDS, Directorate, it is the Matriculation certificate, or equivalent which has to be taken for determining the Date of Birth/age of the candidate. In the circumstances, impugned order of the Collector, directing for constitution of a Medical Board, is unsustainable. Apparently, the District Magistrate is giving undue advantage to Respondent No.7. Since the Date of Birth stands verified on the basis of petitioner's *Madhyama* certificate, as per decision dated 09-05-2012 of the I.C.D.S, Directorate, there is no requirement whatsoever, for constitution of a Medical Board.

10. The learned State counsel, on the other hand, submits that as per petitioner's Date of Birth recorded in *Madhyama* certificate and her daughter's Date of Birth recorded in her Matriculation certificate, the age gap of the petitioner with her daughter is 08 years only, which appears to be highly improbable, to say the least. It is, under such circumstance, that the Collector, has considered it appropriate for Constitution of a Medical Board to ascertain the petitioner's age.

11. On consideration of the rival submissions, this Court would take notice of the fact that the age gap of the petitioner with that of her daughter being 08 years only based on age recorded in their respective certificates, is not a fact in dispute. In view of



such unique circumstance, this Court would observe that the order of the District Magistrate, directing for constitution of a Medical Board for ascertaining the petitioner’s age for the limited purposes of process of selection in-question, appears to be the only fair resolution available. The exercise being undertaken, would only be for the limited purposes of the process of selection in question. With this clarification, this Court, based on the reasons and discussion made above, does not find any reason to interfere with the impugned order dated 01-12-2017 passed by the Collector in Service Appeal No. 2 of 2017, as contained in Annexure-7 to the writ petition.

12. The writ petition is dismissed.

(Madhuresh Prasad, J)

shyambihari/-

AFR/NAFR	AFR
CAV DATE	20-09-2022
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