

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10970 of 2018

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Pushpa Kumari Alias Pushpa Devi Wife of Late Anil Bhagat, resident of
Chaukada, Police Station- Piri Bazar, District- Lakhisarai.

... .. Petitioner/s

Versus

1. The State Of Bihar through the Principal Secretary, Department of Social Welfare, Government of Bihar, Patna.
2. The Director, Integrated Children Development Scheme, I.C.D.S., Bihar, Patna.
3. The Commissioner, Munger Division, Munger.
4. The District Magistrate-cum-Collector, Lakhisarai.
5. The District Programme Officer, Lakhisarai.
6. The Child Development Project Officer, Suryagrha, Lakhisarai.
7. The Women Supervisor, Gashaith Panchayat, Suryagrha, Lakhisarai.
8. Lalita Kumari, W/o Shankar Thakur, r/o Village- Chaukara, P.S.- Piri Bazar, District- Lakhisarai.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Praveen Kumar Singh, Advocate Mr. Murli Dhar, Advocate
For the Respondent/s	:	Mr. Sunil Kr. Mandal, SC-3 Mr. Bipin Kumar, AC to SC-3 Ms. Neelam Kumari, AC to SC-3

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CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
CAV JUDGMENT

Date : 18-08-2022

Heard the parties.

2. The petitioner has approached this Court being aggrieved by the order passed by the District Magistrate-cum-Collector, Lakhisarai on 13.09.2017, whereby and whereunder he has set aside the order passed by the District Programme Officer, Lakhisarai on 23.11.2015 in favour of the petitioner. The petitioner seeks a direction upon the authorities to select the petitioner as Aganwadi Sevika for centre no. 267 at ward no. 7 in village Chaukada, in terms of the order dated 23.11.2015 of



the District Programme Officer, Lakhisarai.

3. The brief factual background is that an advertisement dated 11.12.2014 was issued for selection of Aganwadi Sevika at the centre in question, where petitioner was one of the applicants. The petitioner as well as the private respondent no. 8, amongst others, were applicants and participated in the process pursuant to the said advertisement. The Aam Sabha proceedings were conducted on 03.02.2015. It is admitted position that selection of Aganwadi Sevika, to the centre in question, was to be from amongst the extremely backward caste category as the area was predominantly comprising of EBC. Another fact which is not disputed is that the petitioner as well as private respondent no. 8 both belonged to EBC category. It is also not disputed that the petitioner was awarded 76.7 marks, whereas the private respondent no. 8 was awarded 68.78 marks at the Aam Sabha. Petitioner, therefore, was the first empanelled candidate at the Aam Sabha conducted on 03.02.2015.

4. The Aam Sabha observed discrepancy in the date of birth being claimed by the petitioner; *vis-a-vis* her age as declared in her application form. Holding the petitioner to be overage she was not selected. The respondent authorities proceeded to select the private respondent no. 8. The petitioner has challenged the said selection before the District Programme Officer, Lakhisarai. The District Programme Officer, Lakhisarai, got the Matriculation certificate produced by the petitioner along with her application, verified by the Bihar School Examination Board, Patna (hereinafter referred to as "BSEB"). The Secretary, BSEB vide letter dated 04.08.2015 bearing



memo no. 3175 has reported the petitioner's date of birth to be 10.10.1975. The report indicates that the petitioner had appeared for Matriculation examination conducted in the year 1990. Since the petitioner's date of birth was verified as 10.10.1975, the District Programme Officer directed the Child Development Project Officer, respondent no. 6, to issue selection letter to the petitioner. The selection letter was issued by the CDPO on 03.02.2016.

5. The private respondent no. 8, being aggrieved by petitioner's selection under orders of the respondent no. 5, filed an appeal before the District Magistrate, which appeal has been allowed by the impugned order dated 13.09.2017 directing for issuance of selection letter in favour of private respondent no. 8. The petitioner has thus assailed the order of the District Magistrate dated 13.09.2017. It would be relevant to take note of one undisputed fact that if the petitioner's claimed date of birth, i.e. 10.10.1975, is correct then the petitioner was eligible for participation in the selection process and for selection as Aganwadi Sevika in terms of the Aganwadi Sevika/Sahayika Selection Guidelines, 2011 applicable to the selection process.

6. The petitioner's counsel submits that since the Matriculation certificate submitted by the petitioner in favour of her candidature recorded her date of birth as 10.10.1975, and the certificate had duly been verified from the BSEB, by the respondent no. 5, the order of the respondent no. 5 dated 23.11.2015, directing for the petitioner's selection as Aganwadi Sevika did not suffer from any infirmity. Order of the District Magistrate is ignoring the verification of petitioner's date of birth and matriculation certificate. This order dated 13.09.2017



directing for issuance of selection letter in favour of respondent no. 8, therefore, is unsustainable.

7. The learned State counsel as well as the learned counsel for respondent no. 8 have submitted that pursuant to the earlier advertisement published in the year 2013, for selection of Aganwadi Sevika to the same centre, the petitioner had submitted application claiming a different date of birth. Even in the instant selection process there is a discrepancy in the date of birth claimed by the petitioner in her application form, with the date of birth mentioned in her matriculation certificate. The District Magistrate, therefore, has rightly directed for selection of private respondent no. 8, holding the petitioner's selection to be invalid. The counsel for respondent no. 8 has laid great emphasis on the fact that the petitioner was earlier working as Sahayika since 15.09.2004. Referring to the petitioner's reply filed before the District Magistrate in Appeal No. 97 of 2015-16 (Annexure-5), the counsel for respondent no. 8 has submitted that there was also a discrepancy in the petitioner's date of birth found in her admit card, with that mentioned in the matriculation certificate. The same is evident from the petitioner's reply (Annexure-5). Facts being so, the petitioner's selection is clearly unsustainable as there is a glaring ambiguity in respect of the petitioner's date of birth. She thus is not entitled to claim her date of birth as 10.10.1975.

8. Considering the rival submissions, this Court would notice that it is not in dispute that if the petitioner's claimed date of birth, 10.10.1975 is correct then she was eligible to participate in the process of selection for Aganwadi Sevika and be selected as Aganwadi Sevika. The selection process has



been initiated in the year 2014 and Aam Sabha was held on 03.02.2015. The process of selection was thus guided by the Aganwadi Sevika/Sahayika Selection Guidelines of 2011. From bare perusal of Clause 4 and 5 of the 2011 guidelines it is apparent that for the purposes of preparing the merit list for selection of Sevika the guidelines considers marks obtained in the matriculation examination, or its equivalent, to be relevant. Being a matriculate is the minimum educational requirement also in terms of clause 4 of the 2011 guidelines. The minimum age criteria as per clause 4.4 of the 2011 guideline has been fixed as 18 years, and maximum as 40 years as on 1st of January of the year in which the advertisement has been published. In the instant case advertisement was admittedly published in the year 2014. Therefore, it cannot be said that the petitioner was above 40 years on first of January, 2014, since her date of birth is 10.10.1975 as per matriculation certificate, duly verified by the BSEB. In the circumstance, there is no scope for anyone to dispute the fact that petitioner's date of birth is 10.10.1975.

9. At this juncture, this Court would also observe that the minimum and maximum age has been specified in the guidelines and minimum educational qualification has been laid down as matriculation or equivalent. Thus, in order to ensure fair and expeditious selection, this Court would consider that it was only proper that the matriculation certification or equivalent was considered as the basis for ascertaining the date of birth for the purposes of the age eligibility criteria by the District Programme Officer in its order dated 23.11.2015. Date of birth mentioned in admit card for matriculation examination or any other date of birth mentioned by candidate cannot be made the basis for assessing and determining the age eligibility criteria in



the matter of selection of Aganwadi Sevika, in view of the scheme of the 2011 guidelines. The submission of the State Counsel and the Counsel for respondent no. 8, therefore, relying upon date of birth claimed by the petitioner in some earlier selection process or as reflected in an admit card, is untenable. Since the matriculation certificate records the petitioner's date of birth as 10.10.1975; the same being duly verified by the BSEB, there is no scope to conclude otherwise.

10. The District Programme Officer has rightly relied upon the matriculation certificate of the petitioner while passing the order dated 23.11.2015. The order of the District Magistrate dated 13.09.2017 in Appeal Case No. 97/2015-16 interfering with the order of the District Programme Officer is based on other irrelevant material and is clearly unsustainable.

11. The order of the District Magistrate dated 13.09.2017 is hereby quashed. The petitioner as a result of quashing of the order of the District Magistrate is entitled to be issued a selection letter pursuant to decision of the District Programme Officer dated 23.11.2015 within eight weeks from the date of receipt/production of a copy of this order.

12. The writ petition is accordingly allowed.

(Madhuresh Prasad, J)

shashank/-

AFR/NAFR	NAFR
CAV DATE	04.08.2022
Uploading Date	16.09.2022
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