

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2007 of 2023

=====

Mahalakhshmi Kumari @ Mahalaxmi Kumari Wife of Manik Chand Maya
Resident of Village- Bariyahi, Ward No.- 13, Post- Devottar, Police Station-
Banmankhi, District- Purnia.

... .. Petitioner/s

Versus

1. The State of Bihar through the Secretary, Department of Social Welfare, Government of Bihar, Patna- 800001.
2. The Divisional Commissioner, Purnia.
3. The District Magistrate, Purnia, District- Purnia.
4. The Director (ICDS), Integrated Children Department, Administrative-cum-District Officer, Purnia.
5. The Joint Commissioner cum Secretary, Regional Transport Authority, O/O Sub-Divisional Commissioner, Purnia.
6. The District Officer, Purnia.
7. The District Program Officer, Purnia.
8. The Deputy Collector, Land Reforms, Banmankhi, Purnia.
9. The Child Development Program Officer, Banmankhi, Purnia.
10. Namrta Kumari, Wife of Arvind Kumar Resident of Village- Bariyahi, Ward No.- 13, Post- Deveottar, P.S. Banmankhi, District- Purnia.

... .. Respondent/s

=====

Appearance :

For the Petitioner/s	:	Mr. Sudhir Kumar Thakur, Advocate
For the State	:	Mr. Md. Raisul Haque, SC- 10
For the Respondent No. 10	:	Mr. Praveen Ranjan, Advocate

=====

CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD

ORAL JUDGMENT

Date : 05-10-2023

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

2. The petitioner was selected as ‘Anganwadi Sevika’ for centre No. 93, Ward No. 13, which has been interfered with by the District Program Officer (for brevity ‘D.P.O.’) on the



finding that the Mapping Register was signed only by the ‘Panch’ and not by the Lady Supervisor or by the Child Development Project Officer (for brevity ‘C.D.P.O.’). The finding of the D.P.O. was assailed before the District Magistrate, Purnia, who affirmed the finding. The petitioner, thus approached this Court in **C.W.J.C. No. 2288 of 2017**. Paragraph No. 6 of the order passed on the petitioner’s writ petition is relevant and is being extracted hereinbelow:-

“6. The learned counsel for the petitioner has drawn the attention of the Court to the Mapping Register, copy of which has been obtained by him through R.T.I., on which the signature of the Lady Supervisor appears quite clearly. It is, therefore, submitted that the District Magistrate, Purnea, without looking into the records of the case, has only repeated what the District Programme Officer, Purnea had to say about the appointment process. The order passed in Appeal is, therefore, unsustainable in the eyes of law.”

3. The matter was thus remitted to the District Magistrate for re-looking at the issue. The District Magistrate has again affirmed the earlier order, and has this time taken a decision that the petitioner’s selection was based on a proper Mapping list, which finding has been interfered by the



Divisional Commissioner, Purnia, in Miscellaneous Anganwadi Appeal No. 23 of 2019. The same has led to cancellation of the petitioner's selection, which is assailed by her in these proceedings.

4. Learned counsel for the petitioner submits that the findings recorded by the Divisional Commissioner is based on conjecture and surmises. It is, therefore, unsustainable. There is no definite finding recorded in the order passed by the Divisional Commissioner.

5. Learned counsel appearing on behalf of respondent No. 10, on the other hand, raises an objection that the writ petition against the order passed in respect to *Anganwadi Sevika/Sahaika* selection, should not be entertained by this Court exercising writ jurisdiction under Article 226 of the Constitution of India, since, there is no fixity of tenure and the *Anganwadi Sevika/Sahaika* is not a civil post to which the constitutional protection under Article 311 of the Constitution of India is extended.

6. The Court having considered the rival submissions is faced with various judgments on both sides of the objection. On the one hand, there are judgments which are to the effect that since the *Anganwadi Sevika/Sahaika* do not hold a civil post, it



would not be proper to exercise writ jurisdiction in such matters. On the other hand, there are judgments to the effect that orders being passed by the State Authorities with reference to selection made under the guidelines issued by the ICDS in furtherance of the Food Security Act, are required to be fair. If there is procedural violation, and order is without jurisdiction, or without complying with principles of natural justice, then the order is required to be interfered with by this Court exercising writ jurisdiction under Article 226 of the Constitution of India.

7. Having taken note of two line of cases, which are placed before this Court, in the instant case, this Court finds that the issue raised by the petitioner is not regarding any procedural violation or non-compliance with the principles of natural justice. It is also not the case of the petitioner that the order is without jurisdiction. It is the factual findings which are sought to be assailed by the submissions regarding the findings being conjectural.

8. The said submission is required to be considered keeping in background the contours of judicial review in such matters. The law is well settled that the scope of judicial review in such matters is limited to the decision making process. The Court is not to sit in appeal over the findings of the Authorities



in such matters.

9. The findings of the District Magistrate on re look of the Mapping Register was to the effect that the Lady Supervisor had put her signature on the Mapping Register which forms the basis of petitioner’s selection. However, the report, based on which the petitioner’s selection had earlier been canceled, had taken into consideration that the Mapping Register was not signed by the Lady Supervisor as also by the C.D.P.O. Till today, there is no findings that the C.D.P.O. also has put signature on the Mapping Register so as to sustain petitioner’s selection.

10. The findings of the Divisional Commissioner, therefore, requires no interference.

11. Writ petition is accordingly dismissed.

(Madhuresh Prasad, J)

Raj kishore/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	16-10-2023
Transmission Date	N/A

