

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No. 5188 of 2023

Urmila Kumari Wife of Sri Rajnish Kumar R/o- Village- Mirzapur, P.O. and
Panchayat- Inayatpur, Ward No.- 06, P.S.- Patori, District- Samastipur.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Social Welfare Department, Government of Bihar, Old Secretariat, Patna- 800015.
2. The District Magistrate-Collector, Samastipur.
3. The District Program Officer, I.C.D.S, Samastipur.
4. The Child Development Project Officer, Paroti, Samatipur.
5. The Lady Supervisor, ICDS, Ward No. 06, P.S.- Patori, District- Samastipur.
6. Nutanbala, Wife of Sri Nitish Kumar R/o- Village- Mirzapur, Ward No 06, P.O. & Panchayat- Inayatpur, Ward No. 06, P.S.- Patori, Dist.- Samastipur.

... .. Respondent/s

Appearance:

For the Petitioner/s : Mr. Shambhu Narayan Singh, Advocate
For the State : Mr. Kumari Amrita (Gp-3)

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH

ORAL JUDGMENT

Date: 01-11-2023

1. The present writ petition has been filed for quashing the order dated 27.02.2019, passed by the District Programme Officer, ICDS, Samastipur whereby and whereunder the selection of the petitioner as Anganbari Sevika has been cancelled. The petitioner has also prayed for quashing of the appellate order dated 01.11.2022, passed by the learned Collector, Samastipur, whereby and whereunder the appeal filed by the petitioner has been rejected. Lastly, the petitioner has



prayed for her reinstatement as Anganbari Sevika at Anganbari Centre No.215 under Ward No. 6 of village-Mirzapur under Inayatpur Panchayat.

2. The brief facts of the case, according to the petitioner, are that an advertisement was published on 09.12.2017, in the daily newspaper, for filling the vacant post of Anganbari Sevika at Anganbari Centre No.215 under Ward No.6 of village-Mirzapur under Inayatpur Panchayat, District-Samastipur, in pursuance whereof, the petitioner along with the private respondent no.6, namely, Nutanbala had filed applications, however, finally the petitioner was selected as Anganbari Sevika on 05.12.2018 for Centre No. 215, in an Aam Sabha convened for the said purpose, in presence of the Lady Supervisor, namely, Mira Kumari, inasmuch as the petitioner had secured first position in the merit list by obtaining 67.6% marks in matriculation examination while the private respondent no.6 had secured second position, since she had only 62% marks in the matriculation examination. Thereafter, the private respondent no.6 is stated to have filed her objections leading to institution of a case bearing Case No.172 of 2018, before the respondent no.3, i.e. the District Programme Officer ICDS, Samastipur, wherein it had been alleged that the petitioner, her husband and



her father-in-law are having their names in the voter list of three different panchayats, which is contrary to the selection guidelines. The petitioner had then appeared before the respondent no.3, who after hearing the parties, had cancelled the selection of the petitioner as Anganbari Sevika by the impugned order dated 27.02.2019. The petitioner had then filed an appeal bearing Anganbari Appeal Case No.167 of 2019, before the Collector, Samastipur, i.e. the respondent no.2, however, the same has also stood rejected by an order dated 01.11.2022.

3. The learned counsel for the petitioner has submitted that the petitioner is a resident of Ward No. 6 of Inayatpur Panchayat & in support of her contention, she had submitted the residential certificate issued by the BDO, Patori dated 15.02.2011 and the one issued by the Circle Officer, Patori dated 24.12.2012 apart from submitting a Certificate of “Bahu Praman-Patra” issued by the Mukhiya of Gram Panchayat Inayatpur dated 04.01.2018, all of which bear the address of the petitioner as vill.-Mirzapur, P.O.- Inayatpur, P.S.-Patori, Block-Patori, District-Samastipur. Thus it is stated that the petitioner has been continuously living at vill.- Mirzapur, P.O.- Inayatpur, P.S.- Patori, Block-Patori, District-Samastipur since the year 2011. It is further submitted that residential certificates dt. 24.12.2012, 01.12.2014, 05.6.2015,



04.11.2015 and 22.10.2016 have been issued by the Circle Officer, Patori in favor of the husband of the petitioner pertaining to the aforesaid address and all the certificates bear the name of the petitioner as his wife. It is next contended that Soil Heath Card, valid for the period 23.12.2017 to 31.03.2020 was issued in the name of the husband of the petitioner, wherein the residential address has been recorded as village-Mirzapur, Panchayat-Inayatpur, Block-Patori, District-Samastipur.

4. It is though admitted by the petitioner that her name was appearing in the voter list of two places, however, it is contended that when the petitioner came to know about the same, she immediately filed an application in Form-7 before the BLO, requesting him to delete her name from the voter-list of Mohiuddinnagar, Sub-Part-01, Amadipur Akhuniya, Block-Patori and then her name was deleted from the said voter-list on 01.01.2018. It is further contended that at the time, the petitioner had applied for being appointed as Anganbari Sevika, her name was appearing in the voter-list of Inayatpur Panchayat, thus the impugned orders dated 27.02.2019 and 01.11.2022, having not considered the aforesaid aspect of the matter, are arbitrary and illegal, hence fit to be set aside.

5. *Per contra*, the learned counsel for the respondent-State



has submitted, by referring to the counter affidavit filed in the present case that thirteen applications were received for the post of Anganbari Sevika for Anganbari Centre No. 215, situated at Ward No.6, Inayatpur Panchayat, District-Samastipur, in pursuance to an advertisement published on 09.12.2017. A merit list was then prepared wherein, the petitioner was placed at serial no.1 while the respondent no.6 was placed at serial no.2. A meeting of the Aam Sabha was then held on 29.05.2018, at the Upgraded Middle School, Mirzapur, however, the same was adjourned on account of lack of quorum & then the meeting was held on 07.07.2018, but again it was adjourned. Thereafter, the meeting of the Aam Sabha was held on 5.12.2018 at the upgraded Middle School of Ward No.6, Gram Panchayat Inayatpur in presence of Ward Member-cum-President, Secretary-cum-Lady Supervisor & the applicants/ beneficiaries. Since the petitioner was at serial no.1 of the merit list, she was selected by the members of the Selection Committee unanimously.

6. The private respondent no.6, being aggrieved and dissatisfied with the decision of the selection committee, had thereafter, filed a case bearing Case No.172 of 2018, before the District Programme Officer (ICDS), Samastipur, regarding the irregularities committed in selection of the petitioner as



Anganbari Sevika at Centre No.215 situated at Ward No.6, Inayatpur Panchayat, District-Samastipur, whereafter notices were issued to the parties and the parties, including the petitioner, were heard at length on 25.01.2019 as also the voter list of Harpur Saidabad Panchayat was perused minutely from which it transpired that the name of the petitioner figures at Serial No.165, while her husband's name figures at Serial No.390 and her father-in-law's name figures at Serial No.892. It also came to light that the petitioner, her husband and her father-in-law were taking the benefits of Government Food Grain Scheme vide Ration Card No. 52632 from Harpur Saidabad Panchayat. The District Programme Officer (ICDS), Samastipur, after hearing the parties at length and perusing the records minutely, passed the impugned order dated 27.02.2019, whereby and whereunder the selection of the petitioner as Angabari Sevika has been cancelled and it has been further directed that selection letter be issued to the private respondent no.6. In compliance to the said order dated 27.02.2019, selection letter has also been issued to the respondent no.6 on 06.04.2019. The petitioner had then filed Anganbari Appeal Case No.167 of 2019, however, the same has also stood rejected by a well-reasoned and a speaking order dated 01.11.2022, passed by the



Collector, Samastipur. Thus, it is submitted that the present writ petition is devoid of any merit, hence, is fit to be set aside.

7. I have heard the Ld. counsel for the parties and perused the materials on record, as also gone through the order dated 27.02.2019, passed by the District Programme Officer, ICDS, Samastipur and the appellate order dated 01.11.2022, passed by the learned Collector, Samastipur, from which it is apparent that the petitioner is not a permanent resident of Ward No. 6, Inayatpur Panchayat, inasmuch as she is original resident of Ward No. 9 of Harpur Saidabad Panchayat, Block- Patori, since her name appears at Serial No.165 of the voter list of Harpur Saidabad Panchayat while her husband's (Rajnish Kumar) name appears at Serial No.390 and her father-in-law's (Randhir Prasad Rai) name appears at Serial No.892. The District Programme Officer (ICDS), Samastipur and the Collector, Samastipur have also found that the name of the petitioner appears in the voter list of other panchayats, apart from the fact that the petitioner, her husband and her father-in-law have engaged in fraudulent acts for deriving illegal benefits by procuring food grains under the Government Food Grains Scheme regularly, vide Ration Card No. 52632, from Harpur Saidabad Panchayat, all of which go to show that the petitioner is not a permanent resident of



Ward No. 6, Inayatpur Panchayat, Village-Mirzapur, District-Samastipur.

8. As regards the contention of the petitioner to the effect that she has got her name deleted from the voter list of other places/ panchayats, this Court finds that firstly, if at all any such application has been made, the same is subsequent to the publication of the advertisement in question and moreover, the receipt annexed as Annexure-7 to the writ petition (Pg. No. 35) does not appear to be a reliable document, inasmuch as neither the same depicts as to from which voter list the name of the petitioner has been removed nor bears the stamp of the concerned authority, thus the same is of no worth. Considering the afore-said aspect of the matter, this Court finds that since the petitioner has failed to conclusively prove that she is a permanent resident of Ward No. 6, Inayatpur Panchayat, village-Mirzapur, District-Samastipur, rather she has been found to be original resident of Ward No. 9 of Harpur Saidabad Panchayat, Block- Patori, District-Samastipur, by the aforesaid authorities, apart from the fact that a reasoned and a speaking order has been passed by the District Programme Officer and the learned Collector, after due notice to the petitioner and after hearing her, no fault can be found either with the impugned order dated



27.02.2019, passed by the District Programme Officer, ICDS, Samastipur or the appellate order dated 01.11.2022, passed by the learned Collector, Samastipur.

9. Another aspect of the matter is that the post of Anganbari Sevika is neither a post having security of tenure nor a civil post, hence it is sufficient that after due notice to the petitioner and hearing her, an order is passed, whereafter adequate opportunity is granted by the appellate authority and in case the incumbent is still aggrieved, she may approach the learned Civil Court of competent jurisdiction. In this connection, it would be apt to refer to a judgment rendered by a co-ordinate Bench of this Court in the case of ***Seema Kumari vs. The State of Bihar & Ors.***, reported in ***(2015) SCC Online Pat 7267***, paragraphs nos. 9 to 11 whereof, are reproduced herein below:-

“9. As noted above, the Anganbari Sevika is not a government servant and has no protection under Article 311(2) of the Constitution of India so as to envisage the concept of regular departmental proceeding. The petitioner was given a notice. She was informed about the allegation against her. She had filed her show-cause reply which was considered by the District Programme officer and when the order went against her, she had also been given adequate opportunity by the appellate authority who, in fact,



had himself got the matter verified by referring the matter to the Bihar Sanskrit Board.

10. In that view of the matter, this Court would not find any error in the impugned order of termination of the services of the petitioner when it is found that the petitioner had got appointment by producing a document in support of qualification which was found to be incorrect/forged.

11. Thus for the reasons indicated above, this application must fail and is, accordingly, dismissed.”

10. It would also be gainful to refer to yet another judgment rendered by the learned Division Bench of this Court in the case of ***Neetu Kumari vs. The State of Bihar & Ors.***, reported in ***2011 (4) PLJR 20***, paragraphs no. 4 and 5 whereof are reproduced herein below:-

“4. In our considered view, the post of Anganbari Sevika is not a post having security of tenure or protection under Article 311 of Constitution of India. Considering the very nature of engagement which provides of honorarium, we are of the view that in case the appellant still feels aggrieved, she may approach the Civil Court for damages. There is nothing at stake in such a scheme other than honorarium. For such contractual engagements the relief of reinstatement is not appropriate and even if there is breach of the scheme or any other principle of law, the claim should ordinarily be permitted, if found



good on merits, only for damages.

5. The appeal is dismissed.”

11. Having regard to the facts and circumstances of the case, considering the materials available on record and for the reasons mentioned herein above, I do not find any merit in the present writ petition, hence the same stands dismissed.

(Mohit Kumar Shah, J)

Kanchan/-

AFR/NAFR	AFR
CAV DATE	NA
Uploading Date	24.11.2023
Transmission Date	NA

