

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.330 of 2021

In
Civil Writ Jurisdiction Case No.25067 of 2013

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Pinki Devi, Wife of Rambabu Baitha, Anganbari Sevika, Anganbari Centre, Baitha Tola, Mirzapur Jagni, Centre Code No.08, Resident of Village- Mirzapur Jagni, P.O.- Rampura, P.S.- Singhwara, District- Darbhanga, Pin- 847106 (Bihar).

... .. Appellant/s

Versus

1. Rani Devi, Wife of Sri Vijay Baitha, Resident of Village- Mirzapur Jagni, P.O.- Rampura, P.S.- Singhwara, District- Darbhanga, Pin- 847106 (Bihar).
2. The State of Bihar through the Secretary, Social Welfare Department, Government of Bihar, Patna.
3. The Director, Integrated Child Development Scheme (I.C.D.S.), Department of Social Welfare, Patna.
4. The Collector, Darbhanga.
5. The District Programme Officer, Darbhanga.
6. The Child Development Project Officer, Singhwara, District- Darbhanga.

... .. Respondent/s

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Appearance :

For the Appellant/s	:	Ms. Shweta Anand, Advocate
		Mr. Ajay Kumar, Advocate
For the Respondent	:	M/s Krishna Kumar
No. 1	:	Chandra Mohan Jha, Advocates
For the State	:	Mr. Gyan Prakash Ojha, G.A-7

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE PARTHA SARTHY

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 04-09-2023

1. The appellant is aggrieved with the fact that the appellant was not impleaded in the writ petition.

2. The issue arises from the appointment of Anganbari Sevika. The applicant, herein, seeks leave to file an appeal from the order passed in the writ petition.



3. The writ petitioner was appointed as an Anganbari Sevika and while she was continuing by order dated 08.12.2012 (Annexure-4) passed by the District Programme Officer, Darbhanga, she was removed from the post. The said order was challenged in appeal unsuccessfully and the order of rejection dated 06.09.2013 is produced as Annexure-6. The same was challenged before this Court in a writ petition numbered as C.W.J.C No. 25067 of 2013, which writ petition was filed as early as on 17.12.2013. While the writ petition was pending, there was an advertisement made and the appellant was appointed pursuant to the selection carried out.

4. The writ petitioner was heard and the writ petition itself was disposed of by the impugned order. Therein the grounds for removal of the writ petitioner was found to be bad. She was restored in service. In fact in the writ petition itself the State had raised the contention that the applicant herein was appointed after the writ petitioner was removed from the post of Anganbari Sevika. A specific contention was taken up that she was not made a party in the writ petition. The learned Single Judge referred to a Supreme Court decision wherein it was declared that the subsequent allottee is not a necessary party, when the removal of the original allottee has been challenged



before a Court of law.

5. Learned Counsel appearing for the appellant specifically referred to the decision of a Division Bench of this Court in L.P.A No. 737 of 2006 produced as Annexure-3 along with the leave application. Therein the respondents who were the writ petitioners had challenged the refusal of the authorities to appoint them despite a selection carried out. The respondents raised a contention that though a proper selection was carried out and the writ petitioners were selected, the *Mukhiya* of the Panchayat did not sign the Aam Sabha proceeding. It was in such circumstances that a further selection was carried out and two other persons were inducted into the post of Anganbari Sevika and Anganbari Sahayika. It was in that circumstance that the Division Bench found that the two other persons, who were subsequently appointed to the post were necessary parties.

6. In the present case, the facts are quite distinct and different. The applicant herein was appointed only subsequent to the removal of the writ petitioner. The applicant could have said nothing about the removal of the writ petitioner and there was no necessity to implead the applicant in the writ petition, where the writ petitioner had challenged her removal. The applicant's continuance would depend upon the result of the writ petition,



which was filed in 2013 especially since the applicant was appointed only in the year 2015; going by the principle of *lis pendens*. We find absolutely no reason to allow the applicant to file an appeal from the aforesaid judgment.

7. We dismiss the leave application (I.A. No. 3 of 2023) and as a consequence the appeal also.

(K. Vinod Chandran, CJ)

(Partha Sarthy, J)

Shiv/Spd

AFR/NAFR	
CAV DATE	N/A
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