

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7257 of 2023

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Shobha Kumari @ Shobha Devi W/o Raj Kumar Rai, Resident of Village-
Dayalpur, Ward No.-09, Under Gram Panchayat Raj Dayalpur, Block and
P.S.- Hajipur, Dist- Vaishali (Bihar)- Pin- 844502

... .. Petitioner/s

Versus

1. The State of Bihar through its Principal Secretary, Department of Social Welfare, Government of Bihar, Patna.
2. The Director, Directorate of I.C.D.S., Department of Social Welfare, Government of Bihar, Patna.
3. The District Magistrate-cum-Collector, Vaishali.
4. The District Programme Officer, Vaishali.
5. The Child Development Project Officer, Hajipur Rural, Vaishali, Nalanda.
6. Menakshi Kumari W/o Manoj Kumar, Resident of Mohalla- Anwarpur, Ward No-22, Gandhi Ashram, P.O.- Hajipur, P.S.- Hajipur Town, Dist.- Vaishali.
7. Bibha Kumari Wife of Dablu Kumar, Resident of Village- Dayalpur, Ward No.- 09, under Gram Panchayat Raj Dayalpur, Block and P.S.- Hajipur, District- Vaishali.
8. Geeta Devi Wife of Manoj Kumar Rai, but actually she is permanent resident of Nepal) at present Resident of Village- Dayalpur, Ward No.- 09, under Gram Panchayat Raj Dayalpur, Block and P.S.- Hajipur, District- Vaishali.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Nishant Kumar Sinha, Advocate
For the Respondent/s : Mr.Prashant Pratap (Gp2)

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL JUDGMENT

Date : 22-11-2023

1. The present writ petition has been filed seeking the following reliefs:-

*"(i) For set aside the order dated
24/12/23 passed in Aganbari Appeal
No-298/2019/03/20-21 by Collector,*



Vaishali whereby the Collector Vaishali passed the order impugned and affirm the Case No-13/2019 (selection) and its order dated 22/08/2019 in a very mechanical manner without appreciating the fact prevailing while the selection of Aaganbari sevika in the concerned ward.

(ii) And also set aside the order dated 22/08/2019 passed in case no-13 of 2019 (Selection) by D.P.O., Vaishali whereby a direction has given to C.D.P.O., Hajipur to issue the selection procedure pursuant to the departmental Letter NMo-990 of Dated 05/04/2016 as per 2016 guideline for the post of Sevika /Sahayika.

(iii) After setting aside the above two orders a direction may be given to the concern authority to proceed with a fresh provision of selection for the post of Aaganbari Sahaiyaka in Ward No-09 for the Aaganbari Center-271."

2. At this juncture, this Court would refer to a judgment rendered by a co-ordinate Bench of this Court in the case of **Seema Kumari vs. The**



State of Bihar and others, reported in **(2015)**

SCC Online Pat 7267, paragraphs no. 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."

3. It would be apt to refer to yet another judgment rendered by the learned Division Bench of this Court in the case of ***Neetu Kumari v. The State of Bihar and others***, 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.”

4. Considering the law laid down by the learned Division Bench of this Court, as aforesaid, the learned counsel for the petitioner seeks not to press the present writ petition, however, seeks liberty on behalf of the petitioner to avail such other alternative remedies as are otherwise available under the law. Liberty, so sought, is granted.

5. The writ petition stands disposed off as not pressed.

(Mohit Kumar Shah, J)

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AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	23.11.2023
Transmission Date	NA

