

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.352 of 2021

In
Civil Writ Jurisdiction Case No.3033 of 2020

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Nirmala Kumari, W/o Radhakant Rai, R/o Village- Satghatta, P.O.-
Hanthwan, P.S.- Alauli, District- Khagaria.

... .. Appellant/s

Versus

1. The State of Bihar through the Principal Secretary, Social Welfare Department, Government of Bihar, Patna.
2. The Director, ICDS Directorate, Social Welfare Department, Govt. of Bihar, Patna.
3. The Commissioner, Munger Division, Munger.
4. The Collector, Khagaria.
5. The District Programme Officer, Khagaria.
6. The Child Development Project Officer, Alauli, District- Khagaria.
7. Rupam Kumari, W/o Rupesh Kumar, R/o Village- Satghatta, P.O.-
Hanthwan, P.S.- Alauli, District- Khagaria.

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr.Sagar Suman, Advocate
For the Respondent/s : Mr. P.K. Shahi, AG

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CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE RAJIV ROY
ORAL JUDGMENT
(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 19-10-2023

The appellant is the writ-petitioner, who is aggrieved with the judgment passed by the learned Single Judge. The issue concerns the selection of an *Anganwari Sevika* by the *Aam Sabha*. The appellant was selected and had also undergone training. The 7th respondent challenged the selection before the District Programme Officer (for brevity “DPO”), Khagaria. The



‘DPO’ having considered the facts found that the selection of the appellant was not proper and cancelled the appointment.

2. Learned counsel for the appellant argued that a number of issues arise in so far as the consideration made by the learned Single Judge, which according to him is erroneous.

3. First of all, the learned Single Judge has found that the *Aam Sabha* did not issue the notice properly and that one Rupam Kumari was placed in the first rank in the selection conducted. Rupam Kumari, the 7th respondent, was placed first in the rank list. However, the credentials of Rupam Kumari was suspect. It is also submitted that the *Aam Sabha* was never postponed and that the ten month’s delay is not significant, since the list of candidates selected is alive for one year. Anganwari Paryavekshika, Sevika, Sahayika Selection Guidelines of 2019 is specifically pointed out which speaks of a panel prepared in the selection, being kept valid for one year. It is also submitted that the letter of selection hence was properly issued even though it was after ten months.

4. It has to be noticed that the ‘DPO’ has considered the entire facts, based on which the learned Single Judge had refused to interfere looking at the trite principle of judicial review which looks at only the decision making process and not



the discretion exercised. It was clearly found by the 'DPO' from the records produced that the issuance of notice by the *Aam Sabha* was not proper. As far as Rupam Kumari, the 7th respondent's qualifications are concerned, an inquiry was made through the District Education Officer and it was found that it was obtained from a proper institution. In any event, the credentials of the 7th respondent is not very relevant, especially considering the various facts regarding improper convening of the *Aam Sabha* and the delayed issuance of the appointment letter.

5. It has also to be noticed that the 7th respondent was not given the appointment as had been claimed before the 'DPO' and the order of the 'DPO' only spoke of cancellation of the appointment of the appellant and conduct of a fresh selection. There was also another person above the appellant i.e. Kanchan Kumari who also was not issued with any appointment letter.

6. As far as ten month's delay is concerned, we find that the guidelines only provide for the panel to be kept valid for a year and it does not say that the first appointment shall be made after delay of ten months. The penal was prepared as on 11.03.2015, as is seen from Annexure-1A of the impugned order



in the writ petition and the appointment order was issued on 13.01.2016.

7. Considering the entire facts and circumstances, as found by the ‘DPO’ from the records, we are of the opinion that there is absolutely nothing to interfere in the judgment of the learned Single Judge. The fact that the appellant was appointed and was given training would be insignificant in so far as the entire process was found to be flawed by the ‘DPO’ on the complaint made by the person who came in the first place.

8. For all the aforesaid reasons, we find absolutely no reason to interfere with the judgment passed by the learned Single Judge.

9. The Letters Patent Appeal stands dismissed.

10. Interlocutory Application(s), if any, shall stand closed.

(K. Vinod Chandran, CJ)

(Rajiv Roy, J)

P.K.P./-

AFR/NAFR	
CAV DATE	
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