

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7260 of 2022

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Pinki Kumari Wife of Jitendra Paswan Resident of Village-Maranchi, P.S.-
Paraiya, District-Gaya.

... .. Petitioner/s

Versus

1. The State of Bihar through the Director I.C.D.S. Govt. Bihar, Patna.
2. The Commissioner Magadh Division, Gaya.
3. The District Programme Officer, Gaya.
4. The Child Development Project Officer, Paraiya, District-Gaya.
5. The Lady Supervisor-Cum-Secretary Selection Committee Panchayat Paraiya Khurd, District-Gaya.
6. The Mukhiya Gram Panchayat Paraiya Khurd Block Paraiya, District-Gaya.
7. The Ward Member, Ward No. 03, Gram Panchayat Paraiya Khurd, District -Gaya.
8. Ragini Kumari not Known to the Petitioner Wife of -Rajiv Pratap Singh Resident of Village- Maranchi, P.S. Paraiya, District-Gaya.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Bibhakar Tiwari, Adv.
For the Respondent/s : Mr. Md. Obaidullah, AC to SC-10

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL JUDGMENT

Date : 12-12-2023

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

"1(i). To issue an appropriate writ preferably in the nature of certiorari for setting aside the order dated 20/01/2022 passed by the Divisional Commissioner Magadh Division Gaya in Aaganbadi Revision Appeal No. 104 of 2021 by which the advertisement published for selection of Aaganbadi Sevika/Sahiyaka with regard to Aaganbadi Centre Dusadh Bigha, Code No. 97,



Ward No. 30, Grampanchayat Paraiya Khurd, District- Gaya has been cancelled alongwith selection of Sevika/Sahaiyka and direction has been issued for appointment of Sevika/Sahaiyaka on the said centre in terms of the advertisement published in the year 2017.

(ii). To hold and declare that after publication of advertisement in the year 2019 all previous advertisements stood automatically cancelled as such the advertisement published in the year 2017 became nonest."

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 aforesaid aspect of the matter, 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 dismissed.

(Mohit Kumar Shah, J)

Ajay/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	13.12.2023
Transmission Date	NA

