

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.25619 of 2013

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Usha Devi W/O Amarendra Choudhary Resident Of Village- Mohanpur, P.S-
Goradih Jagadishpur, District- Bhagalpur.

... .. Petitioner/s

Versus

1. The State Of Bihar.
2. The Commissioner, Bhagalpur Division, Bhagalpur.
3. The District Magistrate, Bhagalpur.
4. The District Programme Officer, Bhagalpur.
5. The Child Development Project Officer, Goradih Block, Bhagalpur.
6. Gita Kumari @ Gita Devi W/O Bihari Mandal Resident Of Village-
Mohanpur, P.S- Goradih Jagadishpur, District- Bhagalpur.

... .. Respondent/s

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Appearance :

For the Petitioner	:	Mr.Saroj Kumar Sharma, Advocate
For the State	:	Mr.Satya Vrat, AC to GP-10

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL JUDGMENT

Date : 17-08-2023

1. The present writ petition has been filed for quashing the order dated 28.12.2012, passed by the District Magistrate, Bhagalpur in Misc. (Anganwari) Case No.76 of 2011-12 whereby and whereunder, the selection of the petitioner as Anganwari Sevika has been cancelled and a direction has been issued to issue appointment letter to the private respondent no.6, i.e. Gita Kumari @ Gita Devi. The petitioner has also prayed for quashing of the appellate order dated



01.10.2013, passed by the Divisional Commissioner, Bhagalpur, Division, Bhagalpur in Misc. (Anganwari) Appeal No.128 of 2012-13 whereby and whereunder, the appeal filed by the petitioner has been rejected.

2. The brief facts of the case, according to the petitioner, are that the petitioner was appointed as Anganwari Sevika at Mohanpur Centre No.126, situated in Ward No.4, after observing the due process of law in the Aam Sabha held on 06.09.2010, however, the private respondent no.6 had approached this Court by filing a writ petition bearing CWJC No.17568 of 2011, which was disposed off by a co-ordinate Bench of this Court by an order dated 21.11.2011, granting liberty to the private respondent no.6 to file appropriate application before the District Magistrate, Bhagalpur with regard to her non-selection on the post of Anganwari Sevika, whereupon the District Magistrate was directed to decide the same after hearing the affected parties. It appears that the respondent no.6 had then filed



a petition before the District Magistrate, Bhagalpur, which was numbered as Misc. (Anganwari) Case No.76 of 2011-12 and after hearing the affected parties, the case of the private respondent no.6 was allowed, the selection of the petitioner was cancelled and it was directed that the private respondent no.6 be appointed on the post of Anganwari Sevika. The petitioner had then filed an appeal bearing Bhagalpur Misc. (Anganwari) Appeal Case No.128 of 2012-13, before the learned Court of Commissioner, Bhagalpur Division, Bhagalpur, however, the same has also been dismissed.

3. The learned counsel for the petitioner has submitted that firstly, it has been wrongly observed by the Collector in the impugned order dated 28.12.2012 that the name of the husband of the petitioner does not find place in the mapping register, inasmuch as the same had been left out and the Aam Sabha, in its proceeding dated 06.09.2010, had directed for including the name of the husband of the petitioner in the mapping



register. It is also submitted that though it is a fact that the brother-in-law of the petitioner is working in BSF since several years, however, they are separate in mess and partition has already taken, hence the petitioner is not deriving any benefit from her brother-in-law. In such view of the matter, it is submitted that the impugned order dated 28.12.2012 is not sustainable in the eyes of law, hence, is fit to be set aside.

4. *Per contra*, the learned counsel for the respondent-State has submitted by referring to the counter affidavit filed in the present case that gross irregularities were detected by the District Magistrate, Bhagalpur, leading to passing of the impugned order dated 28.12.2012, which are being enumerated hereinbelow:-

- (i) As per the departmental guidelines of the year 2006 as also that of the year 2011, amended from time to time, it is mandatory that Anganwari Sevika must be belonging to the majority community (Bahulya Varg), however, in the present



case, the majority community is Gangota Community to which the private respondent no.6 belongs, however, the petitioner belongs to Gareri Community.

(ii) The mapping register has been interpolated and the name of the husband of the petitioner has been subsequently added in the mapping register.

(iii) As per Anganwari Sevika/Sahayika Selection Guidelines, 2006, more particularly, clause 3(ङ), no relative of government and semi-government servants shall be eligible for selection on the post of Anganwari Sevika/Sahayika

(iv) The Centre in question, i.e. Mohanpur Centre No.126 is situated in Ward No.4, however, the petitioner is a resident of Ward No.3 and does belong to Poshak Kshetra.

It is further submitted that on account of the aforesaid deficiencies/disqualifications qua the



petitioner, her selection was cancelled and since the private respondent no.6 fulfills the requisite criteria for the purpose of appointment as Anganwari Sevika/Sahayika, she was directed to be appointed as Anganwari Sevika at the centre in question.

5. Having heard the learned counsel for the parties and having perused the materials on record, this Court finds that the brother-in-law of the petitioner is a Government servant, the petitioner does not belong to the majority community and she is a resident of Ward No.3 and not Ward No.4, hence she neither possesses the requisite qualifications nor fulfills the requisite criterias for being appointed as Anganwari Sevika/Sahayika as per the Anganwari Sevika/Sahayika Selection Guidelines, 2006/2011. The said aspect of the matter has not been refuted by the learned counsel for the petitioner and more over, this Court also finds that ample opportunity has been granted to the petitioner to put forth her defence, however, she has failed to demonstrate



that she fulfills the requisite criterias, prescribed in the guidelines, for the purposes of appointment as Anganwari Sevika/Sahayika, thus this Court does not find any infirmity either in the impugned order dated 28.12.2012, passed by the Collector, Bhagalpur, in Misc. (Anganwari) Case No.76 of 2011-12, or in the one dated 01.10.2013, passed by the Commissioner, Bhagalpur Division, Bhagalpur in Bhagalpur Misc. (Anganwari) Appeal Case No.128/201-13, hence the present writ petition is bereft of any merit, thus the same stands dismissed.

(Mohit Kumar Shah, J)

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AFR/NAFR	AFR
CAV DATE	NA
Uploading Date	08.09.2023
Transmission Date	NA

