

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11855 of 2021

Manisha Kumari Wife of Rajesh Kumar Resident of Village- Mohanpur, Ward No. 11, Post Mohan Pur, P.S.- Pipariya, District- Lakhisarai, Bihar.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Social Welfare Department, Government of Bihar, Patna.
2. The Director The Integrated Child Development Service Directorate, Social Welfare Department, Govt. of Bihar, Patna.
3. The Commissioner Munger Division.
4. The District Magistrate District- Lakhisarai.
5. The District Programme Officer District- Lakhisarai.
6. The Child Development Project Officer Block- Pipariya, District- Lakhisarai.
7. Mahila Parvekshika Papiriy, District- Lakhisarai.
8. The Members of the Selection Committee Anganwari Sewika/ Sahayika, Anganwari Center No. 1, Ward No.- 11, Panchayat- Mohanpur, P.S.- Pipariya, District- Lakhisarai.
9. Aarti Kumari W/o Anand Kumar R/o Village Post and Panchayat Mohanpur, Ward No. 11, Block- Pipariya, P.S.- Pipariya, District- Lakhisarai.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Jitendra Kumar Giri, Adv.
For the Respondent/s : Mr.Lalit Kishore (AG)

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

2 30-11-2023

1. The present writ petition has been filed seeking

the following reliefs:-

"1. That this is a writ application being filed before this Hon'ble High Court on behalf of the aforesaid petitioner for issuance of a writ in the nature of "Certiorari" whereby and whereunder setting aside the office order as contains in Memo No. 540 dated 10.04.2021 passed by



District Programme Officer, Lakhisarai in Anganwari Appeal Case No. 1/2020 (hereinafter referred to as 'Appeal') by which the appeal filed by the petitioner herein above has been rejected and as such her right to be appointed/engaged on the post of Anganwari Sevika in relation to Anganwari Centre No. 1 ward No. 11 of Panchayat Mohanpur, Block Pipariya, P. S. Pipariya, District Lakhisarai has been denied to her whereas, her name appeared as Serial No. 1 in the merit list prepared by the general meeting of the ward No. 11; and in her place private respondent No. 9, whose name was standing at Serial No. 7 of the list, has been appointed on the post of Anganwari Sevika of the aforesaid ward; And further prayer of the petitioner is for issuance of a writ in the nature of 'Mandamus' whereby commanding and directing the state respondents to appoint her on the post of Anganwari Sevika in place of private respondent No. 9."

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 hereinbelow:-

"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 as not pressed.

(Mohit Kumar Shah, J)

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