

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.22875 of 2011

Mostt. Ratan Kumari W/O Late Satish Kumar Resident of Village- Shahpur
Centre- Bhelahi Tola, P.O. P.S. Murah Basantpur, Distt.-Saharsa

... .. Petitioner

Versus

1. The State of Bihar
2. The Commissioner, Koshi Division, Saharsa
3. The District Magistrate, Saharsa
4. The District Programme Officer, Saharsa
5. The Child Development Project Officer, Sattar Katauja, Distt. Saharsa
6. The Mukhiya, Gram Panchayat- Shahpur, Block- Sattarkataiya P.O.& P.S.-
Murali, Basantpur, Distt.-Saharsa
7. Kala Devi W/O Sudhir Kumar Resident of Village- Sahapur, Tole Bhelahi,
P.S. P.O. Murali Basantpur
8. Manju Devi W/O Bidyanand Kumar Yadav R/O Village-Sahapur Tola
Bhelahi, P.O. P.S. Murari Basantpur, Distt.-Saharsa

... .. Respondents

Appearance :

For the Petitioner/s : Mr. Onkar Kumar, Advocate
For the Respondent/s : Mr. Sanjay Kumar, AC to AAG-4

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

3 21-03-2023 Heard learned counsel for the petitioner and learned
counsel for the State.

Petitioner in the present case is aggrieved by and
dissatisfied with the order dated 14.11.2010 passed by the
District Magistrate, Saharsa whereby and whereunder the appeal
preferred by the petitioner has been dismissed. The order of
dismissal has not been interfered with by the Commissioner,
Koshi Division, Saharsa vide Annexure '2', therefore, the same
is also under challenge.

Perusal of the writ application and the materials on



the record would show that the private respondent was not selected only for the reason that her father-in-law was engaged as home-guard from time to time. Giving go-bye to the candidature of the private respondent who was placed above the present petitioner, the present petitioner was selected.

The District Magistrate, Saharsa is correct in saying that the person engaged as home-guard cannot be said to be engaged in any government/semi-government service. They work on honorarium basis, therefore, the competent authority was not justified in selecting the present petitioner.

Learned counsel for the petitioner has assailed the impugned order. It is submitted that the District Magistrate or the Collector, Saharsa has proceeded on a wrong presumption that the person engaged as home-guard is not government employee or semi-government employee. He has pointed out that under 2006 guidelines, the daughter-in-law of a government/semi-government employee would not have been eligible.

This Court finds no force in the submission of learned counsel for the petitioner. The fact that the father-in-law of the private respondent was engaged as home-guard is an admitted fact. In the opinion of this Court, the view of the Collector is



correct. In CWJC No. 12911 of 2007, a learned co-ordinate Bench of this Court has already held that a sweeping clause in the guideline debarring a candidate whose father or husband is in government service is manifestly arbitrary. There is no statement that the father-in-law or any of such persons who are in the category of the relationships under the scheme, are in government service/semi-government service in the same Panchayat/District.

This Court, therefore, finds no reason to interfere with the impugned orders. This writ application is dismissed accordingly.

(Rajeev Ranjan Prasad, J)

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