

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10633 of 2023

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Manika Kumari Wife of Manoj Kumar Mahto, Resident of village- Vishanpur
Sonsa Ward No.1, Tola Murgiya Chak, P.O. and P.S. - Bhorejairam, Anchal -
Khanpur, District – Samastipur.

... .. Petitioner/s

Versus

1. The State of Bihar through the Director I.C.D.S. Social Welfare Department,
Government of Bihar, Patna.
2. The Collector Samastipur, Samastipur.
3. The District Programme Officer I.C.D.S. Samastipur.
4. The Child Development Project Officer, Khanpur, Block- Khanpur, District -
Samastipur.
5. Smt. Arti Kumari, Wife of Ram Babu Mahto, Resident of Village, Vishanpur
Sonsa Ward No. 1, Tola - Muriyachak, P.O. and P.S. - Bhorejairam, Anchal -
Khanpur, District - Samastipur.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Chandra Mohan Singh, Advocate
For the Respondent/s : Mr. S.K. Mandal, SC 3

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CORAM: HONOURABLE MR. JUSTICE NANI TAGIA

ORAL JUDGMENT

Date : 08-12-2023

Heard Mr. Chandra Mohan Singh, the learned counsel for
the petitioner and Mr. S.K. Mandal, the learned SC 3 for the
State.

2. In this writ petition, the petitioner has challenged the
order dated 11.05.2023 passed by the Collector, Samastipur
District in appeal Case no. 680/2020.



3. The petitioner had filed a Case No. 382/2019 before the District Programme Officer (I.C.D.S), Samastipur challenging the appointment of respondent no. 5 as Anganbari Sevika at Centre No. 216 of Village Vishanpur Sonsa, Ward No. 01, Tola Murgiyachak, P.O+P.S. Bhorejairam, Gram Panchayat Bachhauli, Anchal Khanpur, District Samastipur on the ground *inter alia* that the respondent No. 5 does not possess the required educational qualification for appointment as Anganbari Sevika.

4. The Case No. 382/2019 filled by the petitioner challenging the appointment of the respondent no. 5 as Anganbari Sevika was dismissed by the District Programme Officer (I.C.D.S), Samastipur by an order dated 28.02.2020. Against the aforesaid dismissal order passed by the District Programme Officer (I.C.D.S), Samastipur in Case No. 382/2019, the petitioner had preferred the appeal Case No. 680/2020 before the Collector, Samastipur District, which however, was dismissed on 11.05.2023. The petitioner therefore, is before this Court challenging the order of dismissal i.e 11.05.2023 passed by the Collector, Samastipur District in Appeal Case No. 680/2020.

5. The State has filed a counter affidavit wherein, in



paragraph No. 21 it has been stated that when the appeal case filed by the petitioner was heard by the Collector, Samastipur on 30.08.2022, the respondent no. 5 herein was present but the appellant/writ petitioner herein was not present on which date, a last chance was given to the appellant/writ petitioner for appearance. When the appeal was taken up by the Collector on 21.04.2023 the appellant/writ petitioner herein was again absent and finally when the appeal filed by the appellant/writ petitioner herein was taken up again on 11.05.2023 the appellant/writ petitioner was again absent and accordingly, the Collector dismissed the appeal preferred by the appellant/writ petitioner by holding that the appellant has shown lack of interest in pursuing the appeal filed by him.

6. The petitioner is now before this Court by filing this writ petition contending that the Advocate engaged by the appellant was unwell on the dates fixed by the Collector for hearing of the appeal preferred by the appellant/writ petitioner and that is why the appellant/writ petitioner was unrepresented before the Collector. The petitioner, thus, submits that there was no willful laches or negligence on the part of the appellant/writ petitioner in not appearing before the Collector for pursuing the appeal preferred by the appellant and now the appellant/writ



petitioner is willing to pursue the appeal if this Court directs the Collector to consider afresh the appeal preferred by the appellant/writ petitioner.

7. Having heard the learned counsel for the parties and on perusal of the materials placed before this Court, it is found that the appeal Case No. 680/2020 preferred by the petitioner was dismissed by the Collector by the impugned order dated 11.05.2023 for non-appearance of the petitioner, without going into the merits of the contention raised by the appellant/writ petitioner.

8. Having taken note of the explanation provided by the petitioner that the Advocate engaged by the appellant was unwell on the dates fixed by the Collector for hearing of the appeal preferred by the appellant/writ petitioner and that is why the appellant/writ petitioner was unrepresented before the Collector and that there was no laches or negligence on the part of the writ petitioner/appellant, this writ petition stands allowed in the interest of justice and accordingly, the impugned order dated 11.05.2023 passed by the Collector, Samastipur in Appeal Case No. 680 of 2020 is hereby set aside with a further direction to the Collector, Samastipur (respondent No. 2) to consider afresh the appeal preferred by the writ petitioner in appeal Case



No. 680 of 2020 on merits and dispose of the same in
accordance with law.

9. Writ petition is disposed of.

(Nani Tagia, J)

Prakash/-

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	

