

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15094 of 2022

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Nitish Kumar Son of Late Bhim Ram, Resident of Village- Lalaro, P.O.-
Dihri, P.S.- Obra, District- Aurangabad.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Food and Civil Supply Department, Bihar, Patna.
2. The Director, Social and Welfare Department, Bihar, Patna.
3. The District Magistrate, Aurangabad.
4. The Sub-Divisional Officer, Daudnagar, Aurangabad.
5. The District Supply Officer, Aurangabad.
6. The Block Supply Officer, Daudnagar, Aurangabad.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Yugal Kishore, Adv. Ms. Rupa Kumari, Adv.
For the Respondent/s	:	Mr. S. Raza Ahmad (Aag 5)
For the State	:	Mr. Anishul Haque, AC to AAG-5

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CORAM: HONOURABLE MR. JUSTICE A. ABHISHEK REDDY
ORAL ORDER

4 20-12-2023 Learned counsel for the petitioner has stated that the candidature of the petitioner has been rejected on the ground that the mother of the petitioner was engaged as a Anganbari Sevika. Learned counsel has stated that the father of the petitioner was PDS Dealer and after the demise of the father, the petitioner has applied under the compassionate ground but the claim of the petitioner has been rejected on the above said ground.

2. Learned counsel has stated that this Hon'ble Court in LPA No. 772 of 2011 dated 12.08.2011 has held that the



Anganbari Sevika cannot be treated as a Government post or Office of Profit and, therefore, the rejection of the candidature for being appointed as a PDS Dealer is not sustainable.

3. Per contra, learned counsel appearing on behalf of the respondents has vehemently opposed the very maintainability of the present writ petition and stated that the authorities have taken a decision to reject the candidature of the petitioner on the ground that the mother is working as a Anganbari Sevika. That the District Level Committee duly taking into account that the mother of the petitioner is working as a Anganbari Sevika which is Office for Profit has rejected the claim of the petitioner that there is no legality in the impugned order, therefore, prayed this Hon'ble Court to dismiss the present writ petition.

4. Admittedly, in this present case, the father of the petitioner was a PDS Dealer and after the death of the father, the petitioner has applied under the compassionate appointment. The only ground has given by the authorities for rejecting the claim of the petitioner is that the mother of the petitioner is working as Anganbari Sevika. This Hon'ble Court in LPA No. 772 of 2011 dated 12.08.2011 has held as under:-

*“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 for honorarium.”*

5. Having regard to the above made submissions the impugned order is set aside and the matter remanded back to the authorities concerned for considering the matter afresh duly taking into consideration the order passed by this Hon’ble Court in L.P.A. No. 772 of 2011 dated 12.08.2011 and also any other circular that may have been issued by the government satisfying the above position.

6. With the above directions, the present writ petitions stands disposed of. The entire exercise shall be completed as expeditiously as possible preferably within a period of eight weeks from the date of receipt of the copy of this order. Any order passed shall be communicated to the petitioner.

(A. Abhishek Reddy , J)

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