

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.963 of 2019

In
Civil Writ Jurisdiction Case No.4065 of 2018

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Sarswati Kumari Sevika W/o Ramashish Yadav @ Ramashish Kumar R/o Village- Karma Tole Bahadurdih, Centre- Lilji Ward No. 08, Panchayat- Dulare, Block- Deo, P.O.- Baluganj, P.S.- Dhibra, District- Aurangabad, Bihar.

... .. Appellant/s

Versus

1. The State of Bihar Through the Principal Secretary, Social Welfare Department, Government of Bihar, Patna.
2. The Principal Secretary Social Welfare Department, Government of Bihar, Patna.
3. The District Magistrate-cum-Collector Aurangabad, Bihar.
4. The District Programme Officer Aurangabad.
5. The Child Development Project Officer Deo, Block- Deo, District- Aurangabad, Bihar.
6. The Chairman Member of Ward, Ward No.-08 Panchayat- Dulare, Block- Deo, District- Aurangabad, Bihar.
7. Anju Kumari @ Anju Devi W/o Satish Paswan Resident of Village- Bahadurdih, Panchayat Dulare, P.O.- Baluganj, Block- Deo, P.S. Dhibra, District- Aurangabad Bihar.

... .. Respondent/s

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Appearance :

For the Appellant/s	:	M/s Siyaram Shahi Ashok Kumar Singh, Abhishek Kumar Singh, Advocates
For the Respondent/s	:	Mr. Gyan Prakash Ojha (GA7)
For the Respondent No. 7:	:	M/s Amrendra Kumar Singh Alka Singh, Advocate

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE PARTHA SARTHY

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 18-09-2023

1. The only question arising in the appeal is as to whether the impugned judgment which set aside the appointment of the 7th respondent - Appellant and directed



consideration of the writ petitioner is proper.

2. A selection was conducted to the post of Aanganwari Sevika in which one Namita Paswan, who was the resident of Jharkhand had secured the highest marks. The writ petitioner was second in merit and the 7th respondent was the third in merit. Despite the writ petitioner being the second in merit, she was declined the appointment; the first person having been disqualified for reason of being a resident of Jharkhand State, because she was a granddaughter-in-law of a government servant. The learned Single Judge look into account the Guidelines of 2011, which permitted passover of the appointment from a majority community to any other community, first to the Scheduled Caste community then to the Scheduled Tribe community and only after that to the Backward community.

3. The passover is permitted only if none are found qualified, from the majority or Scheduled Caste and then the Scheduled Tribe community. The second rank holder was from the Scheduled Caste community and the third rank holder was from the Backward community. However, the second rank holder was disqualified only because of her grandfather-in-law being a Government employee. In fact the specific restriction in



the Guidelines of 2011 is only to a daughter-in-law of a Government employee from being appointed as an Aanganwari Sevika. In the present case the second rank holder is a granddaughter-in-law and not a daughter-in-law. Hence, the learned Single Judge rightly found that she does not come within the restrictive clause.

4. We find absolutely no reason to entertain the appeal and dismiss the same.

(K. Vinod Chandran, CJ)

(Partha Sarthy, J)

Shiv/-Spd

AFR/NAFR	
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