

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL REVIEW No.264 of 2019

In
Letters Patent Appeal No.276 of 2018

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Mujhat Parween @ Bibi Najhat Parween Wife of Mahboob Alam, Resident of
Village-Kashibare, Tola- Bhebra, P.O.P.S.-Jokihat, District-Araria.

... .. Petitioner/s

Versus

1. The State of Bihar
2. The Director Welfare, Government of Bihar, Patna
3. The District Magistrate, Araria.
4. The District Welfare Officer, Araria.
5. The Sub-Divisional Officer, Araria.
6. The District Programme Officer, Child Development Cell, Araria.
7. The Child development Project Officer, Jokihar, Araria.
8. The Mukhia, Sisauna Gram Panchayat, Jokihat Block, District-Araria.
9. The PanchaYat Secretary, Sisauna Gram Panchayat Jokhar Block, District-Araria.
10. Bibi Nahida Begum Wife of Sohrab Alam, Resident of Village-Bhebra, Tola
Karbala, P.O.-P.S.-Jokihat, District-Araria

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Subodh Kumar Jha, Advocate
Mr. Roshan Kumar Mishra, Advocate
For the Opposite Party/s : Mr. Gyan Prakash Ojha (GA- 7)

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CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
and
HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE P. B. BAJANTHRI)

Date : 29-08-2023

Re:- I.A. No. 01 of 2019

2. Heard the Interlocutory Application for
condonation of delay of 427 days.

3. For the reasons stated in the application and



affidavit and in the interest of review petitioner, delay is condoned.

4. Accordingly, I.A. No. 01 of 2019 stands allowed.

5. With consent of learned counsels for respective parties, the matter is taken up for final disposal.

6. The review petitioner and the 10th Respondent are candidates for the recruitment to the post of Anganwari Sevika in Bhebra Tola, Karbala Anganbari Kendra of Sisauna Gram Panchayat under Jokihat Block of the District of Araria. The review petitioner was selected and appointed in the year 2007. Feeling aggrieved and dissatisfied with the selection process, 10th Respondent approached this Court in filing writ petition (C.W.J.C. No. 17951 of 2008) with the following prayer:-

"(i) For issuance of an appropriate writ/ writs in the nature of mandamus directing/ commanding the concerned respondents to produce before this Hon'ble Court the appointment letter of Private Respondent No. 10 in this case, who has been appointed wrongly on the post of Anganbari Sewika in Bhebra Tola Karbala Anganbari Kendra of Sisauna Gram Panchayat under Jokihat Block of the District of Araria and after production of the same in



this case the same be quashed by issuing an appropriate writ in the nature of certiorari considering the fact that respondent No. 10 namely Mujhat Parveen having lesser marks in her Fauquania and Moulvi examinations with 52.16% and 55.50% respectively than the marks of the petitioner in the aforesaid examination with 64.41% and 74.58 % respectively.

(ii) For further issuance of an appropriate writ/ writs in the nature of mandamus directing/ commanding the concerned respondents to appoint the petitioner on the said post of Anganbari Sewika with all consequential benefits as this petitioner has the highest marks in the panel of merit list than any other candidate and she is married lady having permanent residence in the area of the said Anganbari Kendra, but, due to extraneous consideration, she has not been appointed on the said post of Anganbari Sewika in the said Anganbari Kendra by the respondents.

(iii) For further issuance of an appropriate order/ directions upon the concerned respondents to make a proper and comprehensive inquiry in the appointment of Anganbari Sewika in the aforesaid Anganbari Kendra and to take appropriate action against all the erring respondents/ persons, who have committed illegality in the said appointment due to extraneous considerations.

(iv) Any other relief/ reliefs may be granted to the petitioner for which she is found entitled for in the facts and circumstances of the case."



7. Based on the material on record Writ Court proceeded to decide C.W.J.C. No. 17951 of 2008 while comparing the merit among the review petitioner and 10th Respondent. In the aforesaid writ petition, 10th Respondent was the review petitioner and it was allowed after due consideration of comparative merit. Feeling aggrieved and dissatisfied with the order of the learned Single Judge dated 09.02.2018 passed in C.W.J.C. No. 17951 of 2008, review petitioner preferred L.P.A. No. 276 of 2018 and it was decided on 14.05.2018.

8. Learned counsel for review petitioner submitted that 10th Respondent is not a resident of Poshak Kshetra of Ward No. 2. On that score, 10th Respondent is not entitled to have the benefit of participating in the process of selection and appointment to the post of Anganbari Sewika in Bhebra Tola, Karbala Anganbari Kendra of Sisauna Gram Panchayat under Jokihat Block of the District of Araria. On this issue, learned counsel for review petitioner pointed out para 4 of the L.P.A. order dated 14.05.2018, which reads as under:-

"Learned counsel for the Appellant has submitted that the case of the writ petitioner (respondent no. 10 herein) could not be considered in view of the fact that she did not belong to the Poshakshetra under which the selection of Anganbari



Sevika was being taken up. It is further submitted that apart from the aforementioned fact, the name of the private respondents has not surfaced in the voter list of Ward No. 2 where the Anganbari Centre is running. It further appears that during the course of the selection process when the private respondents/ writ petitioner had raised an objection, it came to the light that the writ petitioner was in fact a resident of Ward No. 3 where another Anganbari Centre was existent and that the claim before the CDPO was rejected vide letter no. 143 dated 30.07.2008 observing therein that the writ petitioner was not covered the poshakshetra of Ward No. 2."

9. Taking note of dates and events read with the relief sought by the 10th Respondent in the writ petition and the Writ Court decided on merits and not with reference to eligibility criteria that 10th Respondent is not a resident of Poshak Kshetra of Ward No. 2, the issue of eligibility criteria of 10th Respondent that she is a resident of Poshak Kshetra of Ward No. 2 cannot be adjudicated by review petitioner in the review petition, arising out of L.P.A. No. 276 of 2018. If the above issue has not been considered by the Writ Court in that event review petitioner had an opportunity of filing review petition in C.W.J.C. No. 17951 of 2008. Moreover, the Co-ordinate Bench considered the point raised by the review petitioner herein about



Respondent No. 10 not coming from the scheduled area i.e. Poshak Kshetra and passed the orders after due consideration of the contention. So there is not infirmity in the order dated 14.05.2018 passed in L.P.A. No. 276 of 2018.

10. In the light of these facts and circumstances and the scope of review petition under Order 47 Rule 1 read with Section 114 of the Civil Procedure Code, 1908 and recent decision of the Apex Court in the case of *S. Murali Sundaram Vs. Jothibai Kannan & Others* reported in *2023 SCC Online SC 185*, review petitioner has not made out a case.

11. Accordingly, the present review petition stands dismissed.

(P. B. Bajanthri, J)

(Arun Kumar Jha, J)

rakhi/-

AFR/NAFR	NAFR
CAV DATE	N.A.
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