

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1252 of 2019

In

Civil Writ Jurisdiction Case No.8057 of 2018

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Bigani Devi @ Bigani Kumari W/o Anil Kumar Gupta, Resident of Village and Post - Kauriram, (Kaudiram) Police Station- Mohania, District- Kaimur at Bhabua.

... .. Appellant/s

Versus

1. The State of Bihar through Principal Secretary, Social Welfare Department, Govt. of Bihar, Patna.
2. The Director, Welfare (I.C.D.S.) Directorate, Social Welfare, Govt. of Bihar, Patna.
3. The District Magistrate, Kaimur at Bhabua.
4. The Deputy Development Commissioner, Kaimur at Bhabua.
5. The District Welfare Officer, Kaimur at Bhabua.
6. The District Program Officer, Kaimur at Bhabua.
7. The Child Development Project officer, (C.D.P.O.), Mohania, District Kaimur at Bhabua.
8. Shakila Khatun @ Shakili Khatun, W/o Md. Najir Hussain, Resident of Village and post Kauriram, P.S. Mohania, District- Kaimur at Bhabua.

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr. Ramchandra Singh, Advocate
For the Respondent/s : Mr. Gyan Prakash Ojha, GA-7

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE PARTHA SARTHY

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE PARTHA SARTHY)

Date : 20-09-2023

1. Heard learned counsel for the appellant and learned counsel for the respondents.

2. The instant appeal has been preferred against the judgment dated 2.8.2019 passed by the learned Single Judge allowing CWJC no.8057 of 2018.



3. The facts in brief are that the respondent no.8 herein along with the appellant and others applied for the post of Anganwari Sevika and Sahayika for Code no.18, Gram Panchayat Kauriram, Block Mohania, in the district of Kaimur against the advertisement dated 30.5.2023 issued by the District Magistrate, Kaimur. The respondent no.8 was not appointed on which she moved before the District Programme Officer, Kaimur who also rejected her claim for appointment on the post of Anganwari Sevika. The appeal preferred by her being Anganwari Appeal Case no.13 of 2015-16 was rejected by order dated 23.3.2018 passed by the District Magistrate, Kaimur. She challenged the orders of the District Programme Officer and the District Magistrate in a writ application being CWJC no.8057 of 2018 which was allowed by judgment dated 2.8.2019. It is against this order that the appellant has preferred the instant appeal.

4. Learned counsel for the appellant (respondent no.8 in the writ application) has preferred the instant appeal mainly on two grounds. Firstly that in view of Clause 4.9 of the Guidelines for Selection of Anganwari Sevika/Sahayika, 2011, the *gotni* (husband's brother's wife) of the respondent no.8 being a Government employee, the selection of the respondent



no.8 as an Anganwari Sevika was invalid. It was secondly contended that while the respondent no.8 was working as Anganwari Sahayika since 2007, at the same time, while working in the said capacity, she could not have passed the matriculation examination as a regular candidate from Uttar Pradesh and that too without taking leave or permission from the authority concerned. Further, the certificate filed by the respondent no.8, purportedly issued by the Headmaster, was found to be forged and thus she not having come to this Court with clean hands, no relief could be granted to her.

5. In reply, it was submitted by learned counsel appearing for the respondent no.8 that so far as Clause 4.9 of the Guidelines of 2011 is concerned, this Court vide its judgment dated 27.9.2022 passed in CWJC no.13210 of 2014 has struck down the said Clause 4.9 of the amended Guidelines dated 19.12.2013. With respect to the matriculation certificate, it is submitted that the respondent no.8 passed the matriculation examination while working as an Anganwari Sahayika as a private student but due to fault of the school concerned, in place of 'private', the word 'regular' has been mentioned.

6. Having heard learned counsel for the parties and taking into consideration the material on record, this Court finds



that by judgment dated 27.9.2022 passed in CWJC no.13210 of 2014, this Court has struck down Clause 4.9 of the amended Guidelines of 2011 dated 19.12.2013. Further, with respect to passing of the matriculation examination by the respondent no.8, whatever the contentions of the respective parties may be, it is not disputed by the appellant that the matriculation certificate issued in favour of the respondent no.8 has not been cancelled by the Board concerned. Thus, as the position stands today, the respondent no.8 is a matriculate and eligible for appointment as an Anganwari Sevika.

7. In view of the facts and circumstances stated herein above, the Court finds no merit in the instant appeal nor any reason for interference in the order of the learned Single Judge.

8. The appeal is dismissed.

(K. Vinod Chandran, CJ)

(Partha Sarthy, J)

Saurabh/-

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CAV DATE	
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