

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.60 of 2023

Sanju Kumari, Wife of Ajit Kumar, Resident of Village- Yashpur, P.S.-
Fatehpur, District- Gaya.

... .. Petitioner

Versus

1. The State of Bihar through the Secretary, Social Welfare Department, Government of Bihar, Patna.
2. The Director, I.C.D.S. Directorate, Social Welfare Department, Government of Bihar, Patna.
3. The Commissioner, Magadh Division, Gaya.
4. The District Magistrate, Gaya.
5. The District Programme Officer, Fatehpur, Gaya.
6. The Child Development Programme Officer, Fatehpur, Gaya.
7. Sangeeta Kumari, Wife of Shaymdeo Prasad Yadav, Resident of Village- Yashpur, P.O.- Tarawan, P.S.- Fatehpur, District- Gaya.

... .. Respondents

Appearance :

For the Petitioner/s	:	Mr.Ashok Kumar Sinha, Adv.
For the Respondent/s	:	Mr.Md. Raisul Haque (SC 10)
		Mr. Binay Kumar, A.C. to S.C.-10

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

3 20-03-2023 Heard learned for the petitioner and learned counsel for the State.

The petitioner in the present case is aggrieved by and dissatisfied with the order dated 26.07.2022 passed by the Commissioner, Magadh Division, Gaya in Anganbari Appeal No. 107 of 2012 (Sangeeta Kumari Vs. Sanju Kumari) whereby and whereunder the appeal preferred by the appellant (Respondent No.7) has been allowed.

The facts as revealed from the writ application are not in dispute. The appellant was selected on the post of Anganbari Sevika in the year 2006 but because her father was in Government



service, in terms of paragraph 3(5) of the guidelines governing the selection of the Anganbari Sevika, the District Magistrate cancelled the selection of the petitioner. According to paragraph 3(5) of the Guidelines, the wife, daughter, daughter-in-law and grand daughter-in-law of a Government/semi-Government employees would not be eligible for appointment as Anganbari Sevika.

Learned counsel for the petitioner submits that the District Magistrate, Gaya had rightly cancelled the selection of the appellant-Respondent No.7 by holding that the order of this Court passed on 06.05.2010 in CWJC No. 12911 of 2007 (Sunita Kumari Vs. The State of Bihar & Ors.) would not apply retrospectively.

Learned counsel submits that the petitioner submitted before the Divisional Commissioner, Magadh Division, Gaya that the order of the Hon'ble Court in CWJC No. 12911 of 2007 shall not apply retrospectively but the said contention of the petitioner has been rejected and it has been held that the judgment of this Court striking down the paragraph 3(5) of the guidelines of 2006 would apply retrospectively. With this view taken by the Divisional Commissioner, the appeal preferred by the appellant-private respondent has been allowed. Learned counsel submits at this stage that the order of the Writ Court in CWJC No. 12911 of 2007 would apply only in respect of the petitioner in the said case.

Learned counsel for the State has opposed this writ application. It is submitted that the petitioner has no case at all. In



CWJC No. 12911 of 2007, a learned Co-ordinate Bench of this Court has, after examining clause 3(५) held that the said provision was manifestly arbitrary and hit by Article 14 of the Constitution of India. It is submitted that the husband of the private respondent was a Government servant in the State of Jharkhand. Neither the father nor the husband of the private respondent is a Government servant working in the concerned district under which the Aganwadi Centre is situated. It is submitted that the judgment by which this Court struck down clause 3(५) of the 2006 guidelines will apply retrospectively as if there was no provision like paragraph 3(५) in the guideline.

Having heard learned counsel for the petitioner and the State, this Court is of the considered opinion that Divisional Commissioner, Magadh Division, Gaya has taken a correct view of the matter. This Court has already declared the law in CWJC No. 12911 of 2007 and that will be applicable in case of the petitioner and the private respondent as well.

This writ application has no merit. It is dismissed accordingly.

(Rajeev Ranjan Prasad, J)

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