

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.872 of 2023

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Kajal Kumari Sri Mukul Kumar R/o Village- Jajauli Ward No. 4, Panchayat-
Jajauli, P.S. and Block- Masrakh, District- Saran at Chapra.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Social Welfare Department, Government of Bihar.
2. The Director, I.C.D.S., Social Welfare Department, Government of Bihar, Patna
3. The the Commissioner, Saran Division, Saran at Chapra
4. The District Magistrate, Saran at Chapra
5. The District Programme Officer, I.C.D.S., Saran at Chapra
6. The Child Development Project Officer, Masrakh, Saran
7. The Mahila Supervisor, Child Development Project, Masrakh, Saran
8. Kanak Kumari Wife of Manak Mayank, R/o Village- Jajauli, Ward No. 4, Panchayat- Jajauli, P.S. and Block- Mashrakh, District- Saran at Chapra

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Krishna Kant Singh, Advocate
For the State	:	Mr. S.K. Mandal (SC-3)
		Mr. Bipin Kumar, AC to SC-3
For respondent No. 8	:	Mr. Ranjeet Kumar, Advocate
		Mr. Kanishk Kaustubh, Advocate

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CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL JUDGMENT

Date : 21-08-2023

1. Heard learned counsel for the petitioner and learned counsel for the State as well as learned counsel for private respondent No. 8.

2. The petitioner as well as private respondent No. 8 are applicants for being selected as *Anganwari Sevika* at center No. 76, Panchayat-Jajauli, Block-Masrakh, Saran. The selection process was being carried on under the 2019 Guidelines issued



by the Integrated Child Development Services (ICDS) Directorate. The advertisement was published in the newspaper specifying the last date for submission of the application form online i.e. 13-06-2020.

3. The petitioner's grievance is that the private respondent No. 8 has been selected at the *Aam Sabha* dated 22-12-2020, by wrongly granting her the bonus by treating her as a candidate belonging to physical handicapped (PH) category. If she was not considered as a PH-category and not awarded bonus, the petitioner, who was second in the merit list, would have emerged successfully.

4. It is submitted by learned counsel for the petitioner that the requirement of the advertisement was submission of online applications by 13-6-2020 along with all certificates, including certificate of physically handicap. Reference is made to clause 6 of the advertisement which reads as follows:

"6. ऑन लाईन आवेदन के साथ आवेदिका

सभी वांछित दस्तावेज (Document) यथा मैट्रिक अंक

पत्र (सहायिका के लिए अष्टम का अंक पत्र) मूल प्रमाण

पत्र, जाति प्रमाण पत्र, आवासीय प्रमाण पत्र, विधवा प्रमाण

पत्र (विधवा अभ्यर्थी के लिए), विकलांगता प्रमाण पत्र



(विकलांग अभ्यर्थी के लिए) आदि को भी निर्धारित साईज

से अपलोड करना अनिवार्य होगा।"

5. Since the last date was 13-6-2020, it is more than obvious that the certificate, based on which the private respondent No. 8 has been selected, was not submitted before the last date of filing online applications. This submission is founded on the fact that the certificate itself is issued on 19-10-2020, nearly more than four months after the last date for submission of application forms. The submission is that having violated mandatory requirement of the advertisement, the private respondent No. 8 could not have been considered by relying on the certificate dated 19-10-2020.

6. This issue was raised by the petitioner before the Child Development Project Officer (CDPO). The CDPO rejected the petitioner's complain by order dated 10-2-2021. The petitioner thereafter availed remedy before the first appellate authority (District Programme Officer).

7. On 3-6-2021, the District Programme Officer (DPO) interfered with the order passed by the CDPO. The DPO held the private respondent No. 8 was not eligible for being awarded the bonus marks as a PH-category candidate, since the certificate was not submitted online along with her application



form in terms of the advertisement. The selection of private respondent No. 8 was thus set aside.

8. The private respondent No. 8 thereafter has moved before the Commissioner, Saran Division, in *Anganwari* revision Case Number 40 of 2021, also filed under the provision of clause 12 of the 2019 Guidelines. The Commissioner has upheld the selection of private respondent No. 8 and interfered with the order passed by the DPO, which has been annexed as Annexure-5.

9. The learned counsel for the State as well as private respondent No. 8 have submitted that the private respondent No. 8 was in possession of the certificate of PH-category certificate before the Aam Sabha was convened. At the time of filing online application, due to the several restrictions arising out of Covid-19 pandemic, she could not submit the physical handicapped certificate as the authorities had not issued the same.

10. It is her specific case that she had applied for the certificate in March 2020 itself but due to the national lockdown and several restrictions arising out of the Covid-19 pandemic, the same could not be issued till the last date of submission of application form online.



11. The respondent No. 8 however had claimed herself to be a PH-category candidate in her online application; and as soon as the authorities had issued the certificate, she had relied upon the same, much before the *Aam Sabha* was convened. At the time of *Aam Sabha*, no objection was raised by the petitioner to the certificate being issued on 19-10-2020. The authorities have thereafter got the certificates verified as required in clause 10 of the 2019 Guidelines. The certificate is genuine.

12. The submission on behalf of respondent No. 8 is that the requirement of submitting the certificate, while making online application, was incapable of being satisfied due to the unprecedented circumstances arising out of the Covid-19 pandemic. The authorities were not issuing the certificates; and only when the same was issued, the respondent No. 8 has submitted the same. It is not a case where the respondent No. 8 has violated the terms of advertisement; rather it is a case of impossibility to comply with the terms of the advertisement, having regard to the unprecedented circumstances.

13. This Court is inclined to accept the submissions advanced by the respondent No. 8. The Court takes judicial notice of the fact that the several difficulties and restrictions,



arising out of the national lockdown, have been recognized in various judicial orders.

14. It is a case of impossibility to comply with the requirement and therefore, the respondent No. 8, who otherwise, it is not in dispute, is a PH-category candidate cannot be made to suffer, having regard to the unprecedented circumstances.

15. The Court is therefore not inclined to exercise extraordinary jurisdiction to interfere with the order of the Commissioner dated 23-09-2022.

16. Writ petition is dismissed.

(Madhuresh Prasad, J)

SUMIT/-

AFR/NAFR	AFR
CAV DATE	NA
Uploading Date	26.08.2023
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