

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.15426 of 2018

Arising Out of PS. Case No.-1143 Year-2012 Thana- DARBHANGA COMPLAINT CASE
District- Darbhanga

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Urvashi Kumari @ Urbasi Kumari W/o Shri Prakash Kumar , R/o Quarter
No. 177, Defence Colony, P.S.- Kankarbagh, District- Patna presently posted
as Child Development Project officer, District- Kaimur.

... .. Petitioner/s

Versus

1. State Of Bihar
2. Madhu Devi W/o Ram Sevak Paswan, R/o Village- Maheshpatti, Gram
Panchayat Godhiyari, Ward No.5, Block- Hanuman Nagar, P.S.- Bishanpur,
District- Darbhanga.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Awadhesh Kumar, Advocate
For the Opposite Party/s : Mr.Jitendra Kumar Singh, APP

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CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

10 21-03-2023 Heard Mr. Awadhesh Kumar Singh, learned counsel

for the petitioner and Mr. Jitendra Kumar Singh, learned APP

for the State.

The present petition has been preferred for quashing
of the order dated 02.01.2013 passed by learned Judicial
Magistrate 1st Class, Darbhanga, in connection with C.R. No.
1143 of 2012 arising out of Bishanpur P.S. Case No. 84 of 2010
under section 420 of the Indian Penal Code.

In this case, notice was issued to the opposite party
no. 2 on 31.08.2018 by a bench of this Court and in the
meantime, the further proceedings of C.R. No. 1143 of 2012



(T.R. No. 3204 of 2014) was stayed.

As per the office report dated 06.12.2018, the opposite party no. 2 received the registered cover notice personally.

However, when the matter was taken up on 09.01.2023, 16.01.2023, 23.01.2023, 24.01.2023 and 06.02.2023, no one has appeared on behalf of the said opposite party no. 2.

Finally, the matter came up before this Court on 20.02.2023 and taking into account the fact that the notices were issued to the opposite party no. 2, Madhu Devi in 2018 itself and thereafter, the matter has been taken up after for around half a dozen time, despite having received the notice personally, she chose not to contest the matter and in that backdrop, the State was directed to file counter affidavit on behalf of the District Magistrate, Darbhanga with the specific reply to the points raised by the learned counsel for the petitioner.

Pursuant to the aforesaid order dated 20.02.2023, a counter affidavit of the District Magistrate, Darbhanga is on record duly signed by the Child Development Project Officer, Hanuman Nagar, Darbhanga.

From the counter affidavit, it appear that pursuant to



the said order, the District Magistrate, Darbhanga directed both the District Programme Officer, ICDS Darbhanga and the CDPO, Hanuman Nagar, Darbhanga to bring on record each and every facts of the case.

The learned APP took this Court to paragraph 11 of the counter affidavit which read as follows:-

11. That in view of the aforesaid fact it is clear that the willing applicants have to the domicile in the “Poshak Kshetra” of the Anganbadi Center and in the same vide proceeding of the General meeting dated 12.08.2008. It is clear that the Majority/Bahulya Barg of the Anganbadi Centre no. 108 is of Pichhra barg whereas the opposite party no. 2, Madhu Devi belongs to the Schedule Caste and accordingly, her candidatures has been rejected vide proposal no. 4 of the said proceeding order dated 12.08.2008 in accordance to the Rules laid in Anganwari Sevika/Sahiyaka Chayan Margdarsika 2006.”

From the aforesaid facts, it is clear that the said Centre belonged to Backward Class category to which the majority Caste of the said Anganwari Centre were and Vibha Kumari too belongs to Backward Caste. Thus, she was selected ahead of the opposite party no. 2, Madhu Devi, who belonged to Scheduled Caste category.



At this stage, learned counsel for the petitioner submits that as per the Rule 8 of the Anganwari Sevika/Sahayika Selection Guidelines 2006, if aggrieved, the opposite party no. 2 was required to move before the concerned District Magistrate.

Instead of seeking civil remedy, she chose to drag the petitioner who is a Government Officer being Child Development Project Officer which is nothing but an abuse of the process of the law.

Learned APP echoes the submission put forward by the learned counsel for the petitioner that the lady had civil remedy.

Taking into account the aforesaid facts as also the counter affidavit filed by the District Magistrate, Darbhanga in which it has been clearly narrated that while opposite party no. 2 belongs to S.C. category, the majority of that Anganwari Centre had backward class people and as such, Vibha Kumari, a backward Caste lady was selected, the order dated 02.01.2013 passed by the learned Judicial Magistrate 1st Class, Darbhanga in connection with C.R. No. 1143 of 2012 (arising out of Bishanpur P.S. Case No. 84 of 2010) under section 420 of the Indian Penal Code needs interference.



It has already been recorded in earlier paragraphs that the opposite party no. 2 despite valid service of notice in 2018, chose not to contest the matter.

In the aforesaid background, the order dated 02.01.2013 passed by learned Judicial Magistrate 1st Class, Darbhanga, in connection with C.R. No. 1143 of 2012 arising out of Bishanpur P.S. Case No. 84 of 2010 under section 420 of the Indian Penal Code stands quashed.

The application under section 482 of the Code of Criminal Procedure stands allowed.

(Rajiv Roy, J)

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