

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1683 of 2023

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Rita Kumari W/o Deepu Kumar @ Deepu Yadav Resident of Village- Bangali Bigha, Ward No.- 13, Post Sonhatthu, P.S.- Haspura, District- Aurangabad, (Bihar).

... .. Petitioner/s

Versus

1. The State of Bihar through the Secretary, Social Welfare Department, Government of Bihar, Patna.
2. The Director, ICDS, Government of Bihar, Patna.
3. The Commissioner, Magadh Division, Gaya.
4. The District Magistrate, Aurangabad (Bihar).
5. The District Programme Officer, Aurangabad (Bihar).
6. Child Development Project Officer, Haspura Block, Aurangabad (Bihar).
7. Ruchi Kumari, W/o Prabhat Kumar Prabhakar Resident of Bangali Bigha (Pashupati Bigha) Ward no.- 10, P.O.- Sonhatthu, P.S.- Haspura, District- Aurangabad (Bihar).

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Sanjesh Kumar Singh, Advocate.
For the Respondent/s : Mr. Gyan Prakash Ojha (Ga7)

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CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL ORDER

3 17-10-2024 Heard Mr. Sanjesh Kumar Singh, learned counsel

 appearing on behalf of the petitioner and Mr. Gyan Prakash

 Ojha, learned GA-7 for the State.

2. The petitioner, in paragraph no. 1 of the present writ petition, has sought, *inter alia*, following relief(s), which is reproduced hereinafter:-

“That this is an application for setting aside / quashing the order dated 15.12.2022, passed by the Learned Commissioner, Aurangabad in Punarikshan Appeal No. 07/2020, Ruchi Kumari Versus State of Bihar and others, by which the learned Commissioner, Magadh Division, Gaya, has cancelled the selection process of



Anganbadi Sevika of Ward No.13, Bangali Bigha, Sonhattu Panchayat, and has directed the District Programme Officer, Aurangabad to start the selection of Anganbadi Sevika in the light of the existing guidelines after publishing the advertisement afresh, setting aside the orders of the District Magistrate, Aurangabad and District Programme Officer, Aurangabad, respectively, in the matter of selection of Anganbadi Sevika of Ward No.13.”

3. Learned counsel appearing on behalf of the petitioner submits that for redressal of the grievance as prayed for in Para-1 of the writ petition, the petitioner seeks to avail appropriate remedy by filing suit before the competent civil court having jurisdiction in light of the law laid down by the Apex Court in case of ***State of Karnataka & Ors. vs. Ameerbi & Ors.*** reported in ***(2007) 11 SCC 681***.

4. The Apex Court in the case of ***Ameerbi (supra)*** has held that there is no straitjacket formula that all the employees, who fall under the purview of Article 12 of the Constitution would be government employees. Only because the State controls the Integrated Child Development Services (I.C.D.S.) Programme, its employees cannot take shelter under Article-311 of the Constitution that in any manner, the selection process has not taken place in accordance with law.

5. It is further made clear that in the State of Bihar, the guidelines in respect of 'Anganwari Sevika and Sahaikaa', cannot be said to have been enacted in accordance with Article-309 of the Constitution and the procedure followed as per the



requirement of Article-311 of the Constitution necessitates in case of the 'Anganwari Sevika'.

6. Considering the submission made on behalf of the petitioner, the present writ petition stands disposed of with liberty to the petitioner to avail appropriate remedy before the competent civil court having jurisdiction.

(Purnendu Singh, J)

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