

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4588 of 2020

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Kanti Devi, W/o Sunil Mandal, R/o Village- Abhiyatola Panchayat- Chousa
Purbi, Ward No. -6, P.S.- Chousa, District- Madhepura.

... .. Petitioner/s

Versus

1. The State of Bihar, through the Principal Secretary, Department of Social Welfare, Govt. of Bihar, Patna.
2. The District Magistrate, Madhepura.
3. The District Programme Officer, Madhepura.
4. The District Education Officer, Madhepura.
5. The Child Development Project Officer, Chousa.
6. Smt. Poonam Prabha @ Poonam Kumari, W/o Shri Parmanand Mandal, R/o Abhiya Tola, Ward No. -6, P.S.- Chousa, District- Madhepura.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Sheo Jee Mishra, Advocate
For the Respondent/s	:	Mr.S.K.Mandal (SC3)
		Mr. Binod Kumar Sinha, Advocate
		Mr. Ashok Kumar, Advocate

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CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN
ORAL JUDGMENT

Date : 20-06-2024

Heard learned counsel for the petitioner, learned
counsel for the State and learned counsel for the private
respondent No.6.

2. The present writ petition has been filed for
quashing the order dated 30.11.2019 passed by the District
Magistrate, Madhepura who set aside the order of the District
Programme Officer, Madhepura passed in Anganbari Case No.
42/2015 dated 16.07.2016 and subsequently, quashing the order
dated 03.01.2020 passed by the C.D.P.O. Chausa (Madhepura)



whereby and whereunder the petitioner's selection to the post of Sevika has been cancelled.

3. Learned counsel for the petitioner submits that the petitioner had applied for the post of Sevika at Anganbari Centre No.122 under Gram Panchayat Chousa (Purbi) Village-Abhia Tola, Ward No.-6 along with two others. The petitioner was considered in the panel of three candidates, but respondent No. six was selected as Sevika. Later on, it came to the knowledge that respondent No.6 has submitted two types of certificates in the selection of Sahayika and Sevika and due to this reason, the petitioner has filed a case before the D.P.O. Madhepura as Anganbari Case No. 42/2015 which was allowed on 16.07.2016 by the D.P.O. Madhepura. Learned counsel further submits that after the order of the D.P.O., Madhepura, the C.D.P.O., Chausa sent the petitioner on training. The petitioner took training from 09.11.2016 to 10.12.2016. The petitioner submitted a representation on 13.12.2016 to the C.D.P.O., Chausa for joining to the post of Sevika. After the order of the District Programme Officer, Madhepura and obtaining the training of Sevika, the C.D.P.O. Office Chausa sent a selection letter to the petitioner on 04.08.2016 to do the work at Center No. -122 as Sevika.



4. Learned counsel for the petitioner further submits that the private respondent No.6 filed an appeal against the order of the D.P.O., Madhepura, before the District Magistrate, Madhepura vide Appeal No. 18/2016 which was disposed of on 30.11.2019 by setting aside the order of the District Programme Officer, Madhepura without going into the merit of the case. The district Magistrate without considering the contradiction in the date of birth certificate, passed the order in favour of the respondent No.6 which is fit to be quashed.

5. Learned counsel for the petitioner further submits that vide order dated 30.11.2019 passed by the District Magistrate, Madhepura, the office of the C.D.P.O., Chousa sent a letter to the petitioner on 03.01.2020 cancelling her selection from the post of Sevika and directed the respondent No.6 to join at the aforesaid centre to the post of Sevika. It is further submitted that respondent No.6 has submitted her first transfer certificate form Ramdhari High School, Tetri, Pakra in which her date of birth was 09.10.1981. Her mark-sheet shows that she appeared in annual examination of the Board in 1996 and failed in all the subjects. Subsequently, when an advertisement was published in 2013 for appointment to the post of Sevika, she got her name and date of birth changed on 12.10.1986. Therefore,



he submits that the respondent No. 6 has committed fraud after making wrong entries in the application form.

6. Learned counsel for the petitioner in support of his argument relied on a judgement rendered in the case of the ***Central Selection Board of Constable and Ors. Vs. Raj Kumar and Ors.*** reported in ***2017 (1) PLJR 599*** in which it has been decided that once wrong declaration in an application form has been made then the candidature shall be treated to be cancelled. He further submits that the Hon'ble High Court has clearly held that only five year period is confined to entertain any such correction request in the date of birth but she has not requested within five years to get correction in her date of birth, therefore, the remedy to correct the date of birth was not available to the private respondent. He further submits that the order passed by the District Programme Officer is absolutely in accordance with law but the District Magistrate has not considered those aspects of the matter and has passed the cryptic order.

7. Learned counsel for the State submits that in the order passed by the District Magistrate only one aspect of the matter has been considered that no further time was granted to the private respondent for correction in the date of birth and only due to this reason the District Programme Officer has



dismissed the case. Therefore, the District Magistrate has restored and set aside the order passed by the District Programme Officer and, therefore, there is no need of any interference in the said order.

8. Learned counsel for the private respondent submits that the present writ petition is fit to be dismissed due to the reason that the order passed by the District Magistrate is absolutely in accordance with law as the District Programme Officer has not granted 15 days time and not ready to grant time further so that the petitioner could brought his correct date of birth certificate and only on technical reason, the District Programme Officer has passed the order against the private respondent which has been rightly corrected by the District Magistrate.

9. Upon the specific query of the Court about correct date of birth certificate, learned counsel for the private respondent submits that the correct date of birth of private respondent No. 6 is 9.10.1981 and it is not 12.10.1986. Learned counsel for the private respondent No.6 has put emphasis that since wrong entry has been made in the result issued by the Bihar Sanskrit Siksha Board and it is due to this reason, the correction was requested before the Bihar Sanskrit Siksha Board



and, therefore, there is no illegality and by virtue of counter affidavit and the said corrected certificate including the date of birth has been annexed as Annexure-R-6/A issued by the Bihar Sanskrit Siksha Board.

10. Learned counsel for the petitioner in response thereof submits that in the application form which is at page 30 of the writ petition filled up by the petitioner has changed her name from 'Punam Kumari' to 'Punam Prabha' and inserted date of birth as 12.10.1986. She has taken benefit of five points as she was already in service as Sahayika in different panchayat. Therefore according to him, she has filled up the form and changed her date of birth certificate in the Bihar Sanskrit Siksha Board with a specific purpose to defraud the authority concerned.

11. In the light of the submissions made and particularly in view of the ratio laid down by this Court in the case of the **Central Selection Board Constable and Ors. Vs. Raj Kumar and Ors. reported in 2017(1) PLJR 599** in which it has been categorically held in paragraph 7 of the judgement that “ the information supplied was wrong, and as such, cancelled their candidature. It is against this step, they filed the writ petition being CWJC No. 19808/2011, which was



dismissed by the learned Single Judge holding that once the information given in application form was incorrect and was not substantiated by the original certificate, the candidates had no right to be selected. Rejection of their candidature was in order and the writ petition was dismissed”, it transpires to this Court that the petitioner was initially appointed on the post of Sahayika at Abhiya Tola, Ward No.-6 in Chousa Gram Panchayat (Purbi) where her date of birth was 9.10.1981 and she was failed in all subjects in the board examination as mentioned in para 9 of the pleading. Her first transfer certificate from Ramdhari High School, Tetri, Pakra in which her date of birth was shown as 09.10.1981 but with a view to take benefit and to be appointed on the post of Sevika, she changed her date of birth as 12.10.1986 changed her name also but got five point bonus marks too.

12. It further transpires to this Court that once the objection has been raised by the petitioner before the authority concerned then she has started taking steps for correction of the date of birth and in the light of the Division Bench judgement, this Court is of the firm view that the private respondent No.6 has tried to commit fraud with the State only with a view to take benefit and hence all those aspects have not been considered at



all by the District Magistrate.

13. As such, this Court sets aside the order dated 30.11.2019 passed by the District Magistrate, Madhepura. It is directed that the memo no. 2 dated 03.1.2020 is also hereby sets aside. The District Programme Officer, Chousa is directed to accept the joining of the petitioner forthwith and the District Magistrate is further directed to pass order afresh considering all those aspects of the matter including earlier joining of the private respondent as well as all those documents which already she produced before him.

14. With the aforesaid observation and direction, the writ petition stands allowed.

(Dr. Anshuman, J)

Ashwini/-

AFR/NAFR	
CAV DATE	NA
Uploading Date	25/06/2024
Transmission Date	NA

