

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL REVIEW No.96 of 2019

In
Letters Patent Appeal No.661 of 2015

=====

Reena Bharti W/o Sudarshan Kumar Gautam resident of Village- Nathnagar,
P.O.- Haridaspur, P.S. - Nathnagar, Gram Panchayat Raghapur, District-
Bhagalpur.

... .. Petitioner/s

Versus

1. The State of Bihar
2. The Commissioner, Bhagalpur Division, Bhagalpur
3. The District Magistrate, Bhagalpur, Distt.- Bhagalpur
4. The District Programme Officer, Bhagalpur, Distt.- Bhagalpur
5. The Child Development Officer, Nathnagar, Distt.- Bhagalpur
6. Mini Kumari W/o Amit Kumar Vill.- Madhopur, P.o.- Haridaspur, P.s.-
Nathnagar, Gram Panchayat- Raghapur, Distt.- Bhagalpur

... .. Opposite Party/s

=====

Appearance :

For the Petitioner/s : Mr.Sharda Nand Mishra, Adv.
For the Opposite Party/s : Mr.Gyan Prakash Ojha, GA7
Mr.Abhishek Singhy, AC to GA 7

=====

CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
and
HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY
C.A.V. JUDGMENT
(Per: HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY)

Date : 27-08-2024

Re : I.A. No. 1 of 2019

Heard I.A. No. 1 of 2019 for condonation of delay.

2. There is delay of 26 days in filing the present
civil review application.

3. For the reasons stated in the application read
with the affidavit, delay of 26 days in filing Civil Review No.
96 of 2019 stands condoned.



4. Accordingly, I.A. No. 1 of 2019 stands allowed.

Re : Civil Review No. 96 of 2019

5. The present application is being preferred for review of the judgment dated 15.01.2019 passed in L.P.A. No. 661 of 2015 by a Division Bench of this Court, whereby the order of the learned Single Judge dated 12.02.2015 passed in C.W.J.C. No. 1332 of 2014 has been set aside.

6. By filing the present review application, the petitioner has sought following reliefs :

“For review of the order dated 15.01.2019 passed in L.P.A. No. 661 of 2015 by which L.P.A. has been allowed and set aside the order dated 12.02.2015 passed in CWJC No. 1332 of 2014 and order dated 26.09.2013 passed by the Commissioner, Bhagalpur Division which was impugned at Annexure-7 of the writ application declared illegal as contrary to the 2010 guideline which was enforced and did not cover disqualification of the wife of the younger brother of a public representative for such appointment which order is accordingly set aside and reinstated on the post of Aaganwari Sevika to appellant/writ petitioner and also set aside all consequential action undertaken by the concern respondents authorities for fresh appointment of Aaganwari Sevika and writ



petitioner is allowed, when as per Guideline 2010, appellant is/was not eligible for selection on the post of Aaganwari Sevika.”

7. Briefly stated, the facts of the present case is that review petitioner and opposite party no. 6 applied for the post of Aaganwari Sevika and merit list has been prepared by the respondents and in the merit list review petitioner-Reena Bharti is at sl. no. 2 whereas opposite party no. 6-Mini Kumari is at sl. no. 1. It has been asserted that selection of opposite party no. 6 has been rejected in light of certain guidelines and selection letter dated 24.01.2011 has been issued in the name of review-petitioner. Opposite party no. 6 filed application before the District Programme Officer, Bhagalpur (opp. party no. 4) as well as District Magistrate, Bhagalpur (opp. party no. 5) and said application was allowed by virtue of order dated 16.04.2013 by setting aside selection of review-petitioner and direction was given to appoint opposite party no. 6. Thereafter, review-petitioner filed appeal before the Commissioner, Bhagalpur Division, Bhagalpur (opp. party no. 2). In the said appeal, selection of opposite party no. 6 was set aside. Being aggrieved by order passed by the Commissioner, Bhagalpur Division, Bhagalpur (opp. party no. 2) in the appeal filed by the review-petitioner, opposite party no. 6 preferred C.W.J.C. No.



1332 of 2014 in this Court and the same was dismissed on 12.02.2015 and against the order passed by the learned Single Judge, opposite party no. 6 filed L.P.A. No. 661 of 2015 which was allowed vide order dated 15.01.2019. Hence, the present review application has been filed by the review-petitioner against the order passed in L.P.A.

8. Learned counsel for the review-petitioner submitted that from perusal of Guidelines of 2010, it is clearly mentioned at clause 4.6 that relative of the representative wife/ bahu/ relatives are not eligible for selection on the post of Sevika, and subsequently, by virtue of clause 4.8 of the Guidelines of 2011 it is clarified as “relative mother (step/adopted son and daughter) Bhabhi (wife of younger or elder brother)”. In view of the above guidelines, it has been declared that opposite party no. 6, who is wife of the brother of Mukhiya, is not eligible for selection on the post of Sevika as Aam Sabha rejected as per the guideline 2010. It has further been submitted that order dated 15.01.2019 passed in L.P.A. No. 661 of 2015 is fit to be reviewed or recalled as clause 4.6 of the Guidelines of 2010 stipulated that relative of public representative are not eligible for selection on the post of Sevika. The case of opposite party no. 6 has been considered by



Aam Sabha on 19.01.2011 on the ground that opposite party no. 6, who is at sl. no. 1 of the merit list, is relative of the present Mukhiya and hence she was not selected for appointment on the post of Aaganwari Sevika and the review-petitioner was considered and selected for appointment on the said post despite being at sl. no. 2 in the merit list.

9. Learned counsel for the State submitted that there is no apparent error on the face of record and in this way the review application filed by the review-petitioner is not sustainable and the same is liable to be dismissed. He submitted that there is no discovery of new and important matter or evidence which, after the exercise of due diligence was not within the knowledge of review-petitioner or could not be produced by the review petitioner at the time when order was passed as provided under Order XLVII Rule 1 of the Code of Civil Procedure and the order in the L.P.A. has been passed on the basis of material available on record and, therefore, no review is required.

10. The reasoning of review-petitioner is neither tenable nor sustainable in the light of the fact that certain conditions imposed for selection to the post of Anganwari Sevika, as mentioned in Clause 4.6 of 2019 Guidelines, would



be contrary to Articles 14 and 16 of the Constitution of India. The same has been taken note of by the Hon’ble Supreme Court in the case of *Anjum Ara Vs. The State of Bihar & Ors. {Civil Appeal No. 208 of 2024 (Arising out of S.L.P. (C) No. 2233 of 2023)}*.

11. Having gone through the material available on record, it is crystal clear that contention of learned counsel for the State is quite tenable and sustainable as no new fact has been brought on record by the review-petitioner and there is no apparent error on the face of record.

12. In the light of the discussions made above, review-petitioner has not made out a case so as to interfere. Accordingly, Civil Review No. 96 of 2019 is dismissed being devoid of any merit.

(P. B. Bajanthri, J)

(Alok Kumar Pandey, J)

mcv/-

AFR/NAFR	NAFR
CAV DATE	20.08.2024
Uploading Date	27.08.2024
Transmission Date	

