

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10240 of 2019

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Guljan Khatoon @ Golnur Khatun W/o Najrul Alam Resident of Village-
Paschim Tola Sikrona, P.O.- Jhaua, P.S.- Kadwa, district- Katihar.

... .. Petitioner/s

Versus

1. The State of Bihar Through the Principal Secretary, Department Social Welfare Department, Bihar, Patna.
2. The Director Directorate of I.C.D.S. Social Welfare Department, Old Secretariat, Patna.
3. The District Magistrate Katihar.
4. The District Programme Officer Katihar.
5. The Child Development Project Officer Kadwa, Katihar.
6. The President Selection Committee, Sikrona Panchayat, Ward No.-5, Block-Kadwa, Katihar.
7. Farhat Khatoon W/o Anwarul Haque Resident of Village- Sikrona, P.O.- Jhaua, P.S.- Kadwa, District- Katihar.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Mahesh Narain Parbhat, Sr. Adv.
	:	Mr.Md. Ataur Rahman, Adv.
For the Respondent/s	:	Mr.Md.Raisul Haque (SC10)

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CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN
ORAL ORDER

5 23-09-2024 Heard Learned Senior Counsel Mr. Mahesh Narain
Parbhat for the petitioner and Learned Counsel for the State.

2. It transpires to this Court that notice was issued to Respondent No.7 vide order dated 19.12.2019, thereafter service report has been received. Subsequently, from the Office notes dated 27.01.2020, it transpires that Respondent No.7 has appeared through *Vakalatnama* and vide order dated 04.09.2024, case has been adjourned for appearance of Respondent No.7 with clear cut instruction that if on the next date, no one appears



on behalf of the respondent, appropriate order shall be passed on merit of the case on the basis of documents available on record.

3. It further transpires that no counter-affidavit has been filed by the Respondent No.7. Learned Counsel for the State has filed a counter-affidavit in this matter.

4. Learned Senior Counsel for the petitioner categorically submits that on the date of advertisement, private respondent has no eligibility, and therefore, consideration for appointment for private respondent is absolutely illegal. He further submits that the petitioner has eligibility from the date of advertisement itself, but it has been decided by the Authorities that the Educational Qualification of the private respondent was obtained and verified in which it has been found that she has passed from First Class.

5. Learned Senior Counsel further submits that on the date of advertisement, the eligibility is required. If any person who has no eligibility on the date of advertisement, but subsequently got eligibility on the date of appointment, shall not be treated as legal. He further submits that since private respondent even after repeated information has opted not to appear and plead the case, therefore the contention of the petitioner be accepted.



6. Learned Counsel for the State on the other hand submits that mark-sheet has been verified, which has been found genuine having more marks, therefore selection of private respondent has been approved.

7. Upon perusal of the documents, it transpires to this Court that when private respondent even after filing *Vakalatnama*, has not appeared and only the petitioner has appeared, then the Court has no option, but to accept the pleading of the petitioner. In this background, this Court hereby accepts that on the date of advertisement, the petitioner has eligibility whereas the respondent does not have. As such the order passed in Anganbari Appeal No.204/2017-18 dated 11.01.2019 by the District Magistrate, Katihar is hereby set aside.

8. With the aforesaid direction, the present writ application stands allowed.

(Dr. Anshuman, J.)

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