

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15668 of 2012

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Kamla Devi W/o Shri Bijay Yadav Resident of Village P.O.- Dihra, P.S.-
Obra, District- Aurangabad

... .. Petitioner/s

Versus

1. The State of Bihar.
2. The Secretary, Department of Social Welfare, Bihar, Patna
3. The Director, Integrated Child Development Service Directorate, Bihar,
Patna
4. The Divisional Commissioner, Magadh Division, Gaya
5. The District Magistrate, Aurangabad
6. The District Programme Officer, Aurangabad
7. The Sub-Divisional Officer, Daudnagar, Aurangabad
8. The Child Development Project Officer, Block- Obra, District- Aurangabad
9. Muni Devi W/O Shri Rajeev Ranjan Kumar Singh Resident of Village +
P.O.- Dihra, P.S.- Obra, District- Aurangabad

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Ram Chandra Singh, Advocate. Mr. Lal Bahadur Singh, Advocate.
For the State	:	Mr. Rajesh Singh, GP-16
For respondent no.9	:	Mr. Rakesh Kumar Singh, Advocate.

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CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL JUDGMENT

Date : 29-04-2024

Heard Mr. Ram Chandra Singh, learned counsel
along with Mr. Lal Bahadur Singh, learned counsel appearing
on behalf of the petitioner; Mr. Rajesh Singh, learned GP-16 for
the State and Mr. Rakesh Kumar Singh, learned counsel for the
respondent no.9.

2. The petitioner has sought for the reliefs as prayed
for in Para-1 of the writ petition, which is, *inter alia*, reproduced
hereinafter:



I. To issue a writ in the nature of certiorari for quashing of the order dated 28.06.2012 passed by the Respondent No. 4 in Aanganwari Appeal No. 153 of 2011 and 166 of 2011, because while departing with the order the Respondent No. 4 has not discussed or adjudicated the rightful claim of the petitioner.

II. To issue a writ in the nature of certiorari for quashing of the order dated 20.10.2011 passed by the Respondent No. 5 in Aanganwari Service Case No. 144 of 2008, by which the Respondent No. 3 directed the Respondents No. 6 and 8 to ensure fresh selection process, without considering the rightful and genuine claim of the petitioner.

III. To issue a writ in the nature of mandamus commanding the Respondents No. 4 to 6 & 8 to cancel the appointment of the Respondent No. 9 and appoint the petitioner, because the husband and the father-in-law of the Respondent No. 9 is serving in the Postal Department and this fact will find support from the enquiry report of the Respondent No. 7 dated 15.06.2009 bearing letter No. 328/SA. (Annexure – 12).

IV. To issue a writ in the nature of mandamus commanding the Respondents No. 6 & 8 to appoint the petitioner as the enquiry report submitted by the Respondent No. 6 dated 08.04.2010 bearing letter No. 611/Zi.Pro. (Annexure 11) clearly postulates that the claim of the Respondent No. 9 for appointment to the post of Aanganwari Sevika was thorough illegal.

V. To appoint the petitioner to the post of Aanganwari Sevika, forthwith, as the petitioner fulfills the entire criteria of selection.

VI. Any other relief or reliefs.

3. Considering the statement made in Para-18 of the counter affidavit wherein on the basis of Letter No. 139 dated 10.06.2010 of the C.D.P.O., Obra, giving the facts that if the houses of residents of Dihra Madhya Anganbadi Centre are arranged serially, then the house of father-in-law of Munni Devi (Janeshwar Singh) stands at serial no. 170 and, therefore, it can



be accepted that the name which stands at serial no.170 in the mapping/survey register is the name of father-in-law of respondent no.9 because the other Janeshwar Yadav had settled at another place / somewhere long years ago and, as such, the respondent no.9 is definitely the resident of Dihra Madhya Anganbadi Centre, hence, the objection of the petitioner, in this regard, was recommended not to be accepted and on this ground, the selection of respondent no.9 cannot be disqualified for the said post.

4. The aforesaid admission made in Para-18 of the counter affidavit cannot sustain as the District Magistrate – respondent no.5 and the Divisional Commissioner – respondent no.4 have not applied their mind while passing the order and have also not taken any effort to take into account the fact that the petitioner has claimed to be of the resident of Dihra Madhya, which fact has not been taken into account by the CDPO in her Letter No. 139 dated 10.06.2010.

5. I find that the District Magistrate and the Divisional Commissioner have passed the order dated 20.10.2011 and 28.06.2012 respectively in a most mechanical manner. Hence, the orders contained in Annexure – 13 and Annexure-14 passed by the District Magistrate and the



Divisional Commissioner respectively are hereby set aside and quashed.

6. The District Magistrate is directed to take a final decision on the basis of the Minutes of the meeting of Aam Sabha. The order is further required to be questioned on the ground that the respondent no.9 was selected much earlier to the petitioner and the said Minutes of meeting of Aam Sabha has not been discussed in the impugned order by the District Magistrate. The petitioner’s selection has been made by the Aam Sabha with respect to the Dihra Madhya Anganbadi Centre. The dates of meeting of Aam Sabha held for Dihra South have not been given by either parties.

7. The writ petition, accordingly, stands disposed of.

(Purnendu Singh, J)

mantreshwar/-

AFR/NAFR	N.A.F.R.
CAV DATE	N.A.
Uploading Date	02.05.2024
Transmission Date	N.A.

