

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7279 of 2018

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Puja Kumari Wife of Sri Rajesh KUMar, Resident of Village-Sinduar tola
Ramgarh, P.O.-Dangra, P.S.-Mohanpur, District-Gaya.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. District Magistrate, Gaya.
3. In-Charge Officer, District-Law Branch, Gaya.
4. District Programme Officer, Gaya.
5. Child Development Project Officer, Mohanpur, Gaya.
6. Smt. Mamta Kumari Wife of Bashisth Narain Resident of Village-Ramgarh
Tola, Sinduar, P.S.-Mohanpur, P.O. Dangra, District-Gaya.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Ram Hriday Prasad,Adv.
For the State/s	:	Mr.Smt.Kumari Amrita -GP3
	:	Mr. Rajesh Kumar, Ac to GP3
For the respondent No.6	:	Mr.Praveen Kumar, Adv.

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CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN
ORAL ORDER

7 29-04-2024 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
challenging the orders passed by the DPO dated 05.06.2015
(Annexure-5) as well as the order passed by the District
Magistrate, Gaya dated 31.12.2016 (Annexure-7) by which the
claim of the petitioner was rejected by the DPO as well as by
District Magistrate.

3. Counsel for the petitioner submits that there is



advertisement for the post of Anganbari Sevika in Udikhap Anganbari Centre, Gaya in 2012, but no one appointed as per the advertisement. He further submits that for the said centre in February, 2014, the petitioner has submitted her application before the CDPO, Mohanpur on 25.02.2014. Counsel submits that the meeting of Aam Sabha was held on 04.07.2014 and the petitioner was selected as Anganbari Sevika and secured highest marks than other available candidates.

4. Counsel further submits that the petitioner's name was declared most suitable candidate and accordingly, a appointment letter was issued in her favour dated 11.08.2014. He further submits that the petitioner was sent for training and she got the job course training from 05.12.2014 to 07.01.2015.

5. Counsel further submits that on 26.05.2015, the order of DPO, Gaya dated 05.06.2015 has been served by which she become aware that her appointment was cancelled then she preferred appeal before the appellate authority and the appellate authority has rejected her claim on 31.12.2016. He further submits that the orders of DPO, Gaya, dated 05.06.2015 and District Magistrate, Gaya, dated 31.12.2016 are illegal and fit to be set aside.

6. Counsel further submits that the selection of the



petitioner was earlier made, but she has been removed from the post without giving any opportunity or giving show-cause so the order of DPO has been passed in complete violation of natural justice. He further submits the selection of petitioner was cancelled due to irregular work of CDPO head clerk, and therefore, the petitioner must not suffer for the fault of authority.

7. Counsel further submits that there is no laches on the part of the petitioner so she has been made to suffer because of fault of authority. Counsel in support of his argument relied on judgment of **Madras Institute of Development Studies and Anr. Vs. K. Sivasubramaniyan and Ors.** reported in **2016 (1) SCC 454** in which it has been held that when a candidate consciously takes part in selection process, he subsequently cannot turn around and question very selection process.

8. Counsel submits that here in the present case, the petitioner subsequently entered in the selection process and when not selected, then raised question of illegality which may not be permitted.

9. Counsel for the State on the other hand submits that counter-affidavit has been filed and in the counter-affidavit, a clear cut stand has been taken that Anganwari Centre Udikhap is Backward Class dominated area and for the purpose of the



selection of Anganwari Sevika, the first advertisement was published in 2012 and for that purpose altogether six candidates placed for their candidature at the period of Aam Sabha meeting out of these six, only two were present and among these two candidates, respondent No.6 had got better percentage marks and then that of the remaining candidate, then CDPO, Mohanpur on the pretext of the public disturbances adjourned the selection process inviting the directions of the superior officer and then thereafter, without obtaining any direction of the superior officer and without cancelling the advertisement published in 2012, second advertisement has been published for the selection process of the Anganwari Sevika in 2014 and solely viewed to provide benefit to the petitioner of this writ petition and accordingly, the selection of the petitioner has been held invalid and illegal.

10. Counsel for the State submits that decision has been taken subsequently in litigation vide order dated 05.06.2015 by DPO, Gaya and the same was upheld by the District Magistrate in its order dated 22.12.2016.

11. Counsel for the private respondent submits that the private respondent No.6 has properly challenged the same and since the second advertisement is bad in law, it is due to this



reason, the DPO as well as District Magistrate has consistently held that the second advertisement is bad in law, and therefore, rejected the claim of the petitioner which has been filed by her.

12. Upon hearing the parties and going through the pleadings of the parties on record, it transpires to this Court that only legal question involved in the present writ petition that whether the second advertisement for appointment of Anganwari sevika without taking due permission of law by the CDPO is valid or not.

13. In this regard, counsel for the petitioner has not submitted any point that as to why the second advertisement shall be held good particularly when there is consistent finding of the original court and appellate court that the second advertisement is illegal. It also transpires to this Court that in the judgment of **Madras Institute of Development Studies and Anr.(supra)**, both the advertisement are valid and legal. Here in the present case, the second advertisement was illegal on which there is no argument made by the petitioner that it is valid one. The case on which the petitioner is relying, shall be applicable only when both the advertisement shall be treated as valid. Therefore, the said judgment shall not help to the petitioner in any manner.



14. It also transpires to this Court by virtue of the pleadings made by the State that State has also taken stand without second advertisement is not legal which is consistent view of the original court and appellate court. As such, this Court is also of the firm view that the decision taken by the DPO as well as District Magistrate is absolutely in accordance with law and hence, there is no need of any interference.

15. In this view of the matter, the present writ application is hereby dismissed.

(Dr. Anshuman, J.)

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