

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.343 of 2022

In

Civil Writ Jurisdiction Case No.5544 of 2021

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Renu Kumari Wife of Ram Sanjivan Singh, Resident of Village and P.O.-
Kamaldah Ward No. 8, P.S.- Bathnaha, District - Sitamarhi.

... .. Appellant/s

Versus

1. The State of Bihar through the Principal Secretary Social Welfare Department, Government of Bihar, Patna.
2. The Director Integrated Child Development Services, Patna.
3. The Divisional Commissioner, Tirhut Division, Muzaffarpur.
4. The District Magistrate-Cum-Collector, Sitamarhi, District - Sitamarhi.
5. The District Programme Officer (ICDS) Sitamarhi, District - Sitamarhi.
6. The Child Development Project Officer, Bathnaha, District - Sitamarhi.
7. The Lady Supervisor-cum-Member Secretary, Selection Committee, Child Development Project, Bathnaha, District -Sitamarhi.
8. Ward Member-Cum-Chairman, Selection Committee, Ward No. 8 of Gram Panchayat Raj Kamaldah, Block Bathnaha, District - Sitamarhi.
9. Shah Shabnam, Wife of Imamuddin Sah, Resident of Village and P.O. - Kamaldah, Ward No. 8, P.S.- Bathnaha, District - Sitamarhi.

... .. Respondent/s

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Appearance :

For the Appellant/s	:	Mr. N. Hoda with Mr. Alok Kumar Alok and Mr. Sanjay Kumar, Advocates
For the State	:	Mr. Gyan Prakash Ojha, GA 7 with Mr. Abhishek Singh, AC to GA 7

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE HARISH KUMAR

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE HARISH KUMAR)

Date : 03-04-2024

Heard the parties.

2. The challenge in the present Letters Patent Appeal is made to an order/judgment of this Court dated 22.06.2022 passed by the learned Single Judge in CWJC No. 5544 of 2021 whereby and whereunder the writ petition has been allowed



after setting aside the order of the District Magistrate (Appellate Authority) upholding the order of the District Programme Officer dated 05.06.2018 under Memo No. 391.

3. The grounds put forth by the learned Advocate for the appellant, challenging the order/judgment of the learned Single Judge, *inter alia*, is that the writ petitioner-respondent no. 9 herein was not even present in the Aam Sabha proceedings dated 08.02.2017 and 05.02.2017 conducted for the selection of Anganbadi Sevika. It is further contended that respondent no. 9 only submitted supplementary marksheet of the year 2014 in which she has obtained only 35 marks in mathematics out of 100 marks, despite the fact her name has been included in the merit list prepared for the appointment of Anganbadi Sevika. The application submitted by the respondent no. 9 for the post of Anganbadi Sevika clearly demonstrates her passing year of Matriculation Examination as 2013 which could not be said to be correct as the respondent no. 9 had submitted supplementary marksheet of the year 2014. Moreover, the proceeding of the Aam Sabha clearly suggests that in the column of the percentage of marks against the name of the petitioner it is shown that the document is not received.

4. *Per contra*, learned Counsel for the State



submitted that the learned Single Judge has considered all the contentions raised by the appellant and negated the same.

5. Having heard the rival submissions of the learned Counsel for the parties and after perusing the materials available on record, this Court finds that pursuant to an advertisement for selection of Anganbadi Sevika of Centre No. 79 in Ward No. 8 in the district of Sitamarhi, the candidates, including the petitioner and respondent no. 9, have submitted their applications. Admittedly, the predominant caste category of Centre No. 79 was the General Category and in terms of the guidelines 2016, in case of unavailability of candidate of a General Category, selection was to be made on the basis of preference to a candidate of Scheduled Tribes, Scheduled Castes, Extremely Backward Class and Backward Class in that sequence. There is no dispute that the petitioner belongs to a member of Extremely Backward Class and thus on account of unavailability of candidate of Scheduled Tribe/Scheduled Caste, the next preference category shall be Extremely Backward Class. However, despite the aforesaid facts, the respondent no. 9 was not selected compelling her to approach before the District Programme Officer by filing a complaint alleging irregularities in the selection process. The District Programme Officer having



found substance in the complaint of respondent no. 9 has accepted her complaint under order dated 05.06.2018 and directed to ensure a fresh selection procedure after making necessary correction in the merit list under the 2016 guidelines.

6. The appellant being aggrieved preferred an appeal against the afore noted order before the District Magistrate, Sitamarhi in Anganbadi Appeal No. 38 of 2018 which came to be allowed vide order dated 17.12.2020. The District Magistrate while allowing the appeal has found that the respondent no. 9 did not pass the matriculation examination and in such circumstances the order of the District Programme Officer was held to be unsustainable.

7 In the aforesaid premise we examine the contention of the appellant; firstly with regard to non-appearance of respondent no. 9 in the counselling. The aforementioned contention of the appellant has no basis for the simple reason that the District Programme Officer, Sitamarhi under its order dated 05.06.2018 has categorically observed that the respondent no. 9 was present in the counselling and in this regard the Ward Member and Ward Panch of Ward No. 8 as well as Sarpanch and other villagers have submitted written statement certifying her presence.



8 Coming to the second contention of the appellant that the respondent no. 9 has not passed her matriculation examination in the year 2013, appears to be wholly misconceived for the simple reason as the materials available on record clearly suggest that the respondent no. 9 had appeared in her matriculation examination in the year 2013, but on being failed in mathematics she appeared in the supplementary examination conducted in the year 2014 and thereafter marksheet has been issued in the year 2014. In such circumstances, the respondent no. 9 is declared successful candidate of matriculation for the year 2013, irrespective of the fact that the marksheet of matriculation containing 35 marks in mathematics was issued in the year 2014. The learned Single Judge has carefully taken note of this aspect after referring to proposal No. 6 of the proceeding of Aam Sabha.

9. So far as the third contention of the appellant that in the column of the register showing percentage of marks against the name of respondent no. 9, the document is not received, the same is belied from the order of the District Programme Officer, who has categorically observed that from perusal of the documents it was found that the respondent no. 9 has produced the marksheet of both matriculation and its



supplementary examination of the years 2013 and 2014 respectively, but it was knowingly not considered by the Lady Supervisor, Bathnaha, Sitamarhi due to which she was reprimanded and restrained from participating in the selection process till further orders.

10. Having gone through the order, this Court finds the order of the District Magistrate, Sitamarhi upsetting the order of the District Programme Officer was not based upon the materials on record, rather the order has been passed on the premise that the respondent no. 9 has not passed the matriculation examination, which is factually incorrect.

11. In view of the aforesaid facts and circumstances, this Court does not find any infirmity in the order/judgment under appeal. Accordingly, the present Letters Patent Appeal, sans any merit, is fit to be dismissed.

(K. Vinod Chandran, CJ)

(Harish Kumar, J)

Anjani/-

AFR/NAFR	
CAV DATE	
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