

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14311 of 2024

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Mamta Kumari W/o Ramsakal Sahani, Resident of Village- Babhangama,
P.S.- Aurai, District- Muzaffarpur.

... .. Petitioner/s

Versus

1. The State of Bihar, through the Director, Directorate of Integrated Child Development Scheme (ICDS), Department of Social Welfare, Government of Bihar, Patna.
2. The Divisional Commissioner, Tirhut Division, Muzaffarpur.
3. The District Programme Officer, Muzaffarpur.
4. The Child Development Project Officer, Aurai, District- Muzaffarpur.
5. Anita Sahani W/o Awadhesh Sahani, Resident of Village- Babhangama, P.S.- Aurai, District- Muzaffarpur.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Suneil Kumar Thakur, Advocate
For the State : Mr. Jitendra Kumar Roy No.1, SC (13)

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CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL ORDER

2 20-09-2024 Heard Mr. Suneil Kumar Thakur, learned counsel

appearing on behalf of the petitioner and Mr. Jitendra Kumar

Roy No.1, learned SC (13) appearing on behalf of the State.

2. The petitioner, in paragraph no. 1 of the present

writ petition has sought, *inter alia*, the following relief(s), which

is reproduced hereinafter:-

“1. That this is an application for issuance of a writ in the nature of Certiorari for quashing of the order dated 01.08.2024 passed in I.C.D.S Revision Case No. 177/2023 by the respondent Divisional Commissioner, Tirhut Division, Muzaffarpur ('Revisional Order' for short), assailing the order the dated 15.03.2023 passed in Abhilekh No. 122/2020 (Mamta Kumari Vs. The Child Development Project Officer, Aurai) by the respondent District Programme Officer, Muzaffarpur ('Appellate Order' for short), whereby and whereunder the challenge to the selection of the Respondent No. 05 namely Anita



Sahani on the post of Aanganbari Sevika for the Aanganbari Centre No.292 under Ward No. 05 of Gram Panchayat Raj Babhangama, Block- Aurai, District- Muzaffarpur has been dismissed and further for issuance of a consequential writ in the nature of Mandamus commanding and directing the Respondent authorities to declare and hold the petitioner as selected one for the post of Aanganbari Sevika for the Aanganbari Centre No.292 under Ward No. 05 of Gram Panchayat Raj Babhangama, Block- Aurai, District- Muzaffarpur ('Anganbari Centre in question' for short) and/or be pleased to grant such other relief/reliefs for which the petitioner may be found legally entitled to be, in the facts and circumstances of the case."

3. Considering the law laid down by the Apex Court in case of ***State of Karnataka & Ors. vs. Ammerbi & Ors.*** reported in ***(2007) 11 SCC 681***, wherein, it has been held that there is no straitjacket formula that all the employees, who fall under the purview of Article- 12 of the Constitution, would be government employees. Similarly, only because the State controls the Integrated Child Development Services (I.C.D.S.) Programme, its employees cannot take shelter under Article- 311 of the Constitution that in any manner, the selection process has not taken place in accordance with law.

4. It is further made clear that in the State of Bihar, the guidelines in respect of selection of 'Anganwari Sevika and Sahaikaa', cannot be said to have been enacted in accordance with Article-309 of the Constitution and the procedure followed as per the requirement of Article-311 of the Constitution necessitates in case of the 'Anganwari Sevika'.

5. I find that the writ petition is not maintainable



before this Court. The petitioner, however, may avail appropriate remedy in accordance with law.

6. Accordingly, the present writ petition stands disposed of.

(Purnendu Singh, J.)

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