

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.672 of 2022

In

Civil Writ Jurisdiction Case No.538 of 2020

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Seema Kumari Wife of Pawansut Kumar resident of Village- Sakrauli, Gram Panchayat, Badhupur, Block- Mohania, District- Kaimur (Bhabhua).

... .. Appellant/s

Versus

1. The State of Bihar through the Principle Secretary, Social Welfare Department, Government of Bihar, Patna.
2. The District Magistrate, Kaimur (Bhabhua).
3. The District Programme Officer, Kaimur (Bhabhua).
4. The Child Development Project Officer, Mohania.
5. Manju Devi, Wife of Ravi Ranjan Chaudhary Resident of Village- Sakrauli, P.O.- Badhupur, Block- Mohania, District- Kaimur.

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr. Shashi Bhushan Kumar, Advocate
For the Respondent/s : Mr. Gyan Prakash Ojha, GA-7

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE PARTHA SARTHY

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 30-07-2024

The appellant is concerned with her appointment, which the appellant submits was made by the Aam Sabha, and she was issued with an appointment letter on 17.05.2018. The District Magistrate, Kaimur at Bhabhua, who interfered with the order of appointment, as also the learned Single Judge, found that there was an amendment to the Guidelines of 2016 which was issued as per letter dated 25.05.2018. The amendment required a special meeting of the



Aam Sabha to be conducted with the Sub-Divisional Officer in the Chair, if two consecutive Aam Sabhas were not able to decide on the appointment.

2. The appointment letter, as we see from Annexure-2, is by reason of an Aam Sabha said to have been conducted on 17.05.2018. The amendment came on 25.05.2018 and we agree with the learned Counsel for the appellant that the said amendment would not be applicable.

3. However, we have to look at the manner in which the appointment of the appellant was carried out. Annexure-3 is the order of the District Programme Officer, ICDS, Kaimur. A translated copy of this has been placed before us by the Registry. The District Program Officer specifically states in the said order that due to an unnecessary dispute being created, despite two general meetings (Aam Sabha), they had to be adjourned and the selection of eligible candidates could not be made. In the light of the above finding, the Child Development Programme Officer was directed to give selection letter to the candidate Seema Kumari holding the highest marks in the merit list at the earliest. It was based on this that Annexure-2 was issued on the ground that a decision was taken in the general meeting of



the ward held on 17.05.2018.

4. We find the said decision to be on the dictate of the District Programme Officer, which is not permissible as per the guidelines. The District Programme Officer cannot usurp the powers of the Aam Sabha and make appointment based merely on the merit list placed before the Aam Sabha.

5. An appeal was filed from the order by the respondent, which was considered by the District Magistrate, Kaimur at Bhabhua, by Annexure-5. As we noticed, in the said order, it has been stated that the guidelines of 2016 for selection of Aanganwadi Sevika/Sahayika had been amended on 25.05.2018, which we have already found is not applicable. However, the order of the District Magistrate also clearly records the findings of the District Programme Officer that the general meeting had to be postponed twice due to controversy.

6. In the context of the general meeting (Aam Sabha) having been postponed, for whatever reason, without making an appointment, there is no question of sustaining the appointment made by Annexure-2. Hence, despite our finding that the amendment would not apply insofar as the appellant's case is concerned, there can be no interference caused to the



order of the District Magistrate or the learned Single Judge.

7. We, hence, dismiss the appeal on the separate reasoning provided by us. No order as to costs.

(K. Vinod Chandran, CJ)

(Partha Sarthy, J)

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