

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.19190 of 2024

Shakuntala Devi @ Shakuntala Kumari, W/o- Sudharshan Paswan, R/o- Vill.-
Mathar, P.S- Mufasil Khagaria, Block and Dist.-Khagaria

... .. Petitioner/s

Versus

1. The Principle Secretary, Social Welfare Department, Govt. of Bihar, Patna.
2. The Commissioner, Munger Commissionery, Munger.
3. The District Magistrate Cum Collector, Khagaria, Dist.-Khagaria.
4. The District Program Officer, Khagaria, Dist.-Khagaria.
5. The C.D.P.O. (Child Development Project Officer), Khagaria.
6. Manisha Devi, W/o -Dhiraj Paswan, R/o- Village- Mathar, P.S.- Mufasil
Rahimpur, Dist.- Khagaria.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Arun Kumar No. 1, Advocate
For the Respondent/s	:	Mr. K.P. Gupta, GP- 10
		Mr. Virendra Kuar, AC to GP- 10

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL JUDGMENT

Date : 19-12-2024

Heard Mr. Arun Kumar No.1, larned Advocate for
the petitioner and learned Advocate for the State.

2. The petitioner is aggrieved with the order dated
29.09.2019 passed in Anganbari Case No. 47 of 2018 by the
District Programme Officer, Khagaria, contained in Annexure-2
to the writ petition, as also the order dated 30.09.2022 passed in
Misc. (Anganbari) Case No. 16 of 2019-20 by the learned
District Magistrate-cum-Collector, Khagaria, contained in
Annexure-3, whereby the Miscellaneous Case (Appeal)
preferred by the petitioner against the original order also stood



dismissed. It is also contended that against the order of the District Magistrate-cum-Collector, Khagaria, the petitioner has preferred Revision before the Divisional Commissioner, Munger Division, Munger vide Anganbari Sevika Appeal No. 15 of 2023, however, the same came to be rejected on the ground of having no jurisdiction in terms of Guidelines, 2016.

3. Learned Advocate for the petitioner while assailing the impugned orders vehemently contended that despite the petitioner being eligible candidate for the post of Anganbari Sevika, she has not been selected and ignoring all the illegalities mentioned in para. 4 of the writ petition, the private respondent no.6 has been duly appointed. It is further contended that the private respondent no.6 is the relative of Ward Member of Ward no.7 and her date of birth was wrongly filled up and was not even tallied with the Adhar Card. There are various other discrepancies in the selection process apart from the infirmities in the application form; which was not even duly filled up by respondent no.6. The petitioner raised all the infirmities before the District Programme Officer, Khagaria in Anganbari Case No. 47 of 2018, but it came to be dismissed by disregarding all the points raised by the petitioner. On being aggrieved, the petitioner approached before the District Magistrate-cum-Collector, Khagaria in Misc. (Anganbari) Case No. 16 of 2019-20, but to no respite and, in fact, he validate the



illegality, is the contention of learned Advocate.

4. Learned Advocate for the petitioner, however, fairly contended that though under the Guidelines, 2016, there is no provision of revision before the concerned Divisional Commissioner, but on account of wrong advise the petitioner approached before the Divisional Commissioner, Munger Division and accordingly, the same also stood dismissed. Referring to the impugned order, Mr. Kumar, learned Advocate for the petitioner tried to persuade this Court that the respondent authorities failed to consider the infirmities, as pointed out by the petitioner while rejecting the case of the petitioner.

5. On the other hand, learned Advocate for the State contended that after going through the impugned order, it would be manifest that all the relevant points raised by the petitioner has been separately dealt with and on being found no infirmities in the selection of private respondent no.6, the claim of the petitioner has been turned down. It is further contended that the respondent no.6 has secured more marks than the petitioner and this fact cannot be denied, as is evident from the impugned order.

6. This Court has heard the learned Advocate for the respective parties and also perused the materials available on record.

7. Suffice it to observe that in terms of the



prescription as provided under the Guidelines, 2016, the petitioner has availed all the opportunities to challenge the selection, as provided therein. This Court also finds that both the orders passed by the District Programme Officer, Khagaria and District Magistrate-cum-Collector, Khagaria are well reasoned and speaking orders and the infirmities pointed out by the petitioner has been dealt with. Moreover, there is a disputed question of facts, the determination of which demands elaborate examination of evidences and while exercising the writ jurisdiction, this Court ordinarily restrain to enter into such dispute.

8. It is also worth noticing that time without number this Court has held that the post of Anganbari Sevika is neither a post having security of tenure nor a civil post, hence it is sufficient that after due notice to the petitioner and hearing her, an order is passed, whereafter adequate opportunity is granted by the appellate authority and in case the incumbent is still aggrieved, she may approach the Civil Court of competent jurisdiction. It would be apt to recapitulate the relevant paragraphs of the decision rendered by this Court in the case of **Parvati Devi @ Parvati Singh vs. The State of Bihar and Ors., [2024(1) BLJ 178]**, wherein the learned Court having taken note of the decision rendered by the Hon'ble Apex Court in the case of **State of Karnataka and others vs. Ameerbi and**



Others, [(2007) 11 SCC 681] held as follows:

“5. This Court would also refer to a judgment rendered by the Hon’ble Apex Court, reported in (2007) 11 SCC 681 (State of Karnataka and others v. Ameerbi and Others), wherein it has been held that the post of Anganwadi workers are not statutory post and they have been created in terms of the Scheme as also the Anganwadi workers are not holders of civil post since they do not carry on any function of the State as they do not hold post under a statute, their posts are not created, recruitment rules ordinarily applicable to the employees of the State are not applicable in their case, hence, the State is not required to comply with the constitutional scheme of equality, as enshrined under Articles 14 and 16 of the Constitution of India.”

6. Ms Indira Jaising, learned Senior Counsel appearing on behalf of the respondents, on the other hand, would submit that the question as to whether anganwadi workers hold civil post or not must be considered having regard to the tests laid down by this Court in determination of the relationship of employer and employee.

7. The learned counsel would urge that casual railway employees, part-time employees having been held by this Court to be holders of civil post, there is no reason as to why the respondents would be treated differently. It



was submitted that anganwadi workers must not be paid wages less than the minimum wages fixed by the State as the same would amount to beggary. Emoluments of an employee, the learned counsel would urge, must be fair and reasonable.

9. In view of the aforesaid settled legal position and taking note of the disputed question of facts, this Court does not find any merit in the present writ petition. Accordingly, the present writ petition stands dismissed.

10. However, suffice it to observe that the petitioner is at liberty to approach before the Civil Court of competent jurisdiction, if so desire to establish the right for which the writ claimed for.

(Harish Kumar, J)

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AFR/NAFR	NAFR
CAV DATE	NA
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