

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16961 of 2023

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Rita Kumari Wife of Pawan Kumar Sharma, Resident of Village- Bagwara, ward No. 1, Post- Suhird Nagar, P.S.- Begusarai Mufassil, District- Begusarai, Bihar.

... .. Petitioner/s

Versus

1. The State of Bihar represented through the chief Secretary, Government of Bihar, Patna.
2. The Addl. Chief Secretary, Social Welfare Department, Govt. of Bihar, Patna.
3. That Divisional Commissioner, Munger.
4. The Director, Directorate of integrated Chief Development Services (I.C.D.S), Patna.
5. The District Programme Officer, I.C.D.S. Begusarai.
6. The Block Development Officer, Begusarai.
7. The Child Development Project Officer, I.C.D.S. Begusarai (Rural).
8. The Lady Supervisor, I.C.D.S. Begusarai (Rural).
9. Ruby Kumari, Wife of Late Manoj Mahto, Resident of Village- Bagwara, ward No. 1, Post- Suhird Nagar, P.S.- Begusarai Mufassil, District- Begusarai.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Vivekanand Prasad Singh, Advocate
For the Respondent/s	:	Mr. Yogendra Pd. Sinha, AAG 7

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CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI

ORAL JUDGMENT

Date : 30-04-2024

The petitioner has invoked an extraordinary jurisdiction under Article 226 of the Constitution for the following reliefs:-



“1. That, the instant Writ petition is being filed for issuance of a Writ / Writs, order / orders, direction / directions, commanding the respondent authorities preferably by way of a Writ in the nature of mandamus or any other appropriate Writ / Writs, order / orders, direction / directions for the following relief / reliefs to be granted in favour of the petitioner.

A. To set aside and quash the order dated 27.09.2023 passed by the Divisional Commissioner, Munger (respondent No.3) in Revisional Appeal No. 68 of 2022 (Ruby Kumari Vs. State of Bihar & others), being illegal and without jurisdiction.

B. For any other relief(s) to which petitioner may be found entitled to in the eye of law.”

2. It is the case of the petitioner that she had applied for the post of *Anganwadi Sevika* online as required in the advertisement bearing No. ICDS/30025/14-2018, Sec-2684 dated 24th May 2019, issued by ICDS under the Social Welfare Department, Government of Bihar. It is contended by the learned Advocate for the petitioner that the advertisement contained specific dates for publication of advertisement, cut-off date for filing online application, publication of interim merit list, date of filing objection, date of holding special meeting for appointment of *Anganwadi Sevika* and *Anganwadi Sahayika* etc. It is specifically stipulated in point number 7 of the aforesaid notification that an applicant shall have to file all documents relating to the aggregate number obtained in matriculation



certificate, original proof of documents, caste certificate, domicile certificate, widow certificate, disability certificate (in case of physically challenged), etc.

3. Further, case of the petitioner is that the petitioner and the private respondent no. 09 made application for the post of *Anganwadi Sevika*. The first meeting was disrupted, thereafter, second special meeting was convened. In the second meeting, initially, the petitioner topped the selection list. Subsequently, another list was prepared where the name of the private respondent no. 9 appeared at the top of the list. The petitioner submitted representation to the District Programme Officer, Directorate of ICDS, Begusarai and the District Programme Officer duly considered the case of the petitioner as well as the private respondent and found that the petitioner ought to have been selected as the first successful candidate. He passed an order accordingly.

4. Against the said order, the private respondent preferred revision before the Divisional Commissioner, Munger. The Divisional Commissioner, Munger heard the authorized representatives of both the petitioner and the private respondent and found that the private respondent is a widow and she is entitled to weightage in selection process. He also found that the



private respondent mistakenly uploaded her aggregate number which she got in the matriculation examination. Thus, he held that the private respondent actually got 450 marks in matriculation examination out of 700 marks. The petitioner admittedly got 331 marks out of 500, meaning thereby, she got 66.28 % in matriculation examination. However, by way of concluding the marks as per the amended aggregate of matriculation certificate and the weightage for being widow, the Divisional Authority selected respondent no. 09 as *Anganwadi Sevika* of the concerned Ward and Block. The petitioner, being aggrieved, filed the instant writ petition for appropriate relief.

5. The learned Advocate appearing on behalf of the petitioner refers to the guidelines for appointment of *Anganwadi Sevika* and *Angandwadi Sahayika* published in 2019. He especially refers to paragraph 4 of the said guideline where it is stated :-

“4. शैक्षणिक योग्यता- आंगनवाड़ी सेविका के चयन हेतु शैक्षणिक योग्यता मैट्रिक अथवा समकक्ष (अतिरिक्त विषयों को छोड़कर) (जिसे मानव संसाधन विकास विभाग द्वारा पंचायत शिक्षक नियोजन हेतु मान्यता दी गयी हो) उत्तीर्ण होगी। अधिक योग्यता के लिए कोई प्राथमिकता नहीं दी जायगी। आंगनवाड़ी सहायिका के लिए न्युनतम शैक्षणिक योग्यता आठवीं उत्तीर्ण होगी। आंगनवाड़ी सहायिका के चयन में विधवा अभ्यर्थी को प्राथमिकता दी जायगी। बाहुल्य वर्ग से विधवा अभ्यर्थी के नहीं रहने पर क्रमानुसार



अनुसूचित जाति/अनु० जन जाति/अति पिछड़ा वर्ग (अल्पसंख्यक सहित)/पिछड़ा वर्ग (अल्पसंख्यक सहित) सामान्य वर्ग (अल्पसंख्यक सहित) के विधवा उम्मीदवार को चयनित किया जायेगा। इसमें से किसी भी अभ्यर्थी के उपलब्ध नहीं होने पर मेधा अंक के आधार पर सर्वोच्च मेधा अंक वाले अभ्यर्थी को चयनित किया जायेगा। अधिक योग्यता के लिए कोई प्राथमिकता नहीं दी जायगी। आंगनवाड़ी सहायिका के लिए अन्य अर्हताएँ आंगनवाड़ी सेविका के लिए निर्धारित अर्हताओं के अनुरूप होगी। कोई भी आवेदिका यदि साक्ष्य स्वरूप प्रमाण पत्र आदि की छायाप्रति देती हैं तो वह स्व अभिप्रमाणित होनी चाहिये।"

6. Thus, it is contended by the learned Advocate for the petitioner that weightage for being widow shall be given only in case of *Anganwadi Sahayika* for the selection of *Anganwadi Sevika* no such weightage is directed to be given in the guideline issued by the Government of Bihar in 2019, however, respondent no. 09 was arbitrarily given the weightage of being widow by the Revisional Authority.

7. It is also submitted by the learned Advocate appearing on behalf of the petitioner that in order to get the weightage as stated above, the candidate is required to file widow certificate. Filing of death certificate of the husband does not prove that on the date of the consideration of application, the applicant was still widow. The respondent no. 09 did not file any widow certificate.



The Revisional Authority granted weightage to the respondent no. 09 on the basis of death certificate of the husband of the respondent no. 09. The said finding, according to the learned Advocate for the petitioner, is also wrong, therefore, he has prayed for quashing of the impugned order dated 27th September 2023. It is also submitted by the learned counsel for the petitioner that the advertisement for the post of Anganwadi Sevika issued on 24th May 2019, specifically stipulates the date of submission of objection against the respective application and information uploaded in the official date of ICDS. During the said period of time the respondent no. 09 did not file any objection stating that she uploaded the aggregate marks of matriculation certificate wrongly out of inadvertence. On the other hand, she produced a matriculation certificate long after the date of filing objection. The official respondents ought not to have relied on such amended aggregate of the respondent no. 09, on the ground that the said matriculation certificate/mark-sheet may be forged and concocted.

8. Learned Advocate for the State respondents, on the other hand, submits that the Revisional Authority passed the impugned order dated 27th September 2023 after hearing the authorized representatives of both the petitioner and respondent



no. 09 and the said order being speaking order, the writ Court should not interfere with the said administrative order.

9. This Court generally does not like to interfere with the administrative order, unless, there is apparent error in such order. In the guideline of appointment of *Anganwadi Sevika/Sahayika*, it is clearly stated that a widow applicant for the post of Anganwadi *Sahayika* would get precedence over others. These benefits have not been attributed to the *Anganwadi Sevika*. The Revisional Authority being the Divisional Commissioner, Munger failed to consider the above mentioned provision regarding weightage and wrongly granted weightage to the respondent no. 09 because of the fact that her husband has expired.

10. When the respondent no. 09 did not rectify her application and documents uploaded online within the stipulated period of time mentioned in the advertisement by incorporating actual aggregate number which she got in the matriculation certificate, subsequent submission of matriculation certificate at the time of hearing of the appeal claiming that she got 450 marks in aggregate out of 700, ought not to have been considered by the Revisional Authority.

11. For the reasons stated above, the order passed by the Divisional Commissioner, Munger, on 27th September 2023 is



quashed and set aside. The Divisional Commissioner, Munger, is directed to dispose of the appeal afresh taking into consideration the facts that weightage for being widow cannot be attributed to *Anganwadi Sevika*. Secondly, such weightage, even if otherwise granted, requires submission of widow certificate and thirdly, amended or rectified aggregate matriculation certificate of the respondent no. 09 cannot be considered, in view of the fact that she did not rectify her application and documents within the stipulated period stated in the advertisement notice. The said appeal being Anganwadi Sevika Appeal No. 68 of 2022 shall be disposed of within three months from the date of communication of the order afresh.

12. Parties are at liberty to communicate the server copy of the order to the Divisional Commissioner, Munger for taking appropriate action in the instant matter.

13. The instant writ petition is accordingly disposed of, on contest. There is no order as to the cost.

(Bibek Chaudhuri, J)

Suraj Dubey/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	01.05.2024
Transmission Date	01.05.2024

