

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.1594 of 2019

In
Civil Writ Jurisdiction Case No.20004 of 2019

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Shamama Pravin wife of Md. Gulam Rabbani Resident of Village-
Mokhnaha, Gram Panchayat, Dharhara Chakla, Police Station- Banmankhi,
District- Purnea.

... .. Appellant/s

Versus

1. The State of Bihar through the Commissioner, Purnia Division, Purnia.
2. The Regional Development Officer, Purnia.
3. The District Magistrate, Purnia.
4. The District Programme Officer, Purnia.
5. The Sub- Divisional Officer, Banmankhi, Purnia.
6. The Child Development Project Officer, Banmankhi, Purnia.
7. Nusrat Pravin wife of Md. Jibrail, Daughter of Taiyab Ali resident of
Village- Mokhnana, Gram Panchayat Dharhara Chakla, Police Station-
Banmankhi, District- Purnia.

... .. Respondent/s

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Appearance :

For the Appellant/s	:	Mr.Ajey Kumar, Advocate
For the State	:	Mr.Gyan Prakash Ojha (Ga7)
		Mr.Ajit Kumar, AC to GA 7
For Respondent No. 7	:	Mr.Nafissurzoha, Advocate
		Mr.Rabia Gulnaz, Advocate

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CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI

and

HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE P. B. BAJANTHRI)

Date : 04-03-2024

The present LPA is filed by the appellant - Shamama
Pravin in assailing the order of learned Single Judge dated
18.11.2019 passed in CWJC No. 20004 of 2019.

2. Matter relates to selection and appointment to the post
of Aanganbari Sevika for Ward No. 10 in Gram Panchayat



Dharhara Chakla, in the district of Purnea. Appellant and Respondent No. 7 – Nusrat Pravin are candidates for the aforementioned post. There is a policy decision of the State in respect of selection and appointment to the post of Aanganbari Sevika insofar as the deserted women is concerned to the extent of award of marks.

3. Contesting respondent – Nusrat Pravin had furnished deserted women certificate dated 01.04.2012, for which she had been awarded 7 marks in the light of the policy decision. It was objected too by the appellant – Shamama Pravin to the extent that such issuance of deserted women certificate is contrary to factual aspects of the matter to the extent that contesting respondent – Nusrat Pravin is alleged to have given a birth to a child on 18.05.2011. In other words, author of the deserted women certificate issued to the Contesting respondent – Nusrat Pravin insofar as the deserted women on 01.04.2012 is without verifying the factual aspects of the matter. On this issue, the matter was examined at the official level, Consequently, at the official level production of desertion women certificate dated 01.04.2012 read with award of 7 marks has been confirmed.

4. Feeling aggrieved and dissatisfied with official respondents decision, appellant preferred CWJC No. 20004 of



2019 in which also learned Single Judge has confirmed the decision of the official respondents. Hence, the present LPA.

5. Learned counsel for the appellant vehemently contended that crux of the matter has not been examined by the official respondents or the learned Single Judge insofar as date of deserted certificate issued to contesting respondent – Nusrat Pravin on 01.04.2012 read with the alleged fact that she gave birth to a child on 18.05.2011. These are all the factual aspects which are required to be examined by the official respondents. Firstly, they should have verified the validity of the deserted women certificate dated 01.04.2012 read with the fact that she gave birth to a child on 18.05.20211. This issue has not been considered by the respective official respondents in respect of selection and appointment to the post of Aanganbari Sevika.

6. *Per contra*, learned counsel for the respondents resisted the aforementioned contention and supported the decision of the official respondents and so also order of the learned Single Judge dated 18.11.2019 passed in CWJC No. 20004 of 2019. It is submitted that as long as deserted women certificate dated 01.04.2012 is not set aside by the competent authority - official respondents the same holds good and consequently selection and appointment to the Nusrat Pravin is valid. The aforementioned



contention has been adopted by the learned counsel contesting respondent – Nusrat Pravin.

7. Heard learned counsel for the respective parties.

8. It is undisputed that selection and appointment to the post of Aagnabari Sevika for Ward No. 10 in Gram Panchayat Dharhara Chakla, in the district of Purnea was processed. Appellant and contesting respondent – Nusrat Pravin were candidates for the selection and appointment. Respondent No. 7 – Nusrat Pravin was selected whereas appellant – Shamama Pravin was not selected. Appellant – Shamama Pravin questioned the validity of selection and appointment of contesting respondent – Nusrat Pravin on the score that she is lesser merited than the appellant, if 7 marks awarded to her for deserted women issue is nullified. In such circumstances, appellant is more merited than the contesting respondent – Nusrat Pravin. In terms of policy decision to the extent that preference and certain marks are awarded to such a candidate who has been declared as deserted women. Contesting respondent – Nusrat Pravin furnish deserted women certificate dated 01.04.2012. Accordingly, she was awarded 7 marks. Consequently, she is more merited than the appellant. Appellant – Shamama Pravin questioned the award of 7 marks with reference to deserted women certificate dated 01.04.2012.



9. Perusal of the records, it is evident that the none of the official respondents so also learned Single Judge has not taken note of the alleged circumstance in respect of issuance of deserted women certificate dated 01.04.2012 read with alleged allegations relating to contesting respondent – Nusrat Pravin gave birth to a child on 18.05.2011. In other words, before issuance of deserted women certificate on 01.04.2012, the author of the certificate was required to examine whether is she eligible to have the benefit of deserted women certificate as on 01.04.2012 or not? The same has not been examined by the official respondents while holding preliminary investigation or inquiry.

10. Further, deserted women certificate dated 01.04.2012 has not been set aside. Consequently, the appellant has not made out a case. In order to meet Article 14 and 16 of the Constitution, the selecting authority should have verified the genuineness of deserted women certificate dated 01.04.2012. When there is a dispute, in such circumstances in all fairness the concerned authority should have verified the deserted women certificate issued by the authority. Such steps have not been taken by the official respondents both selecting and appointing authority and further next higher authority and so also learned Single Judge.



11. Accordingly, the matter is remanded to the Appointing Authority to the post of Aanganbari Sevika for Ward No. 10 in Gram Panchayat Dharhara Chaka, in the district of Purnea. To get verification of deserted women certificate dated 01.04.2012 with relevant criteria.

12. Appointing Authority is hereby directed to verify who is the Competent Authority to decide whether deserted women certificate dated 01.04.2012 is legal or illegal and to be set aside or not, for such authority the Appointing Authority is hereby directed to entrust about the genuineness of the deserted women certificate dated 01.04.2012. On receipt of information from such authority, Appointing Authority is hereby directed to take fresh steps insofar as affirming the order of selection and appointment of contesting respondent – Nusrat Pravin or appellant – Shamama Pravin is entitled to selection and appointment or not? To the effect a detailed speaking order shall be passed and communicate to the respective parties. In the event of concerned authority determining deserted women certificate dated 01.04.2012 is illegal or arbitrary. In such circumstances, the concerned authority is hereby directed to provide oral hearing to contesting respondent – Nusrat Pravin after providing ample time of opportunity.



13. The above exercise shall be completed by the concerned authorities within a period of four months from the date of receipt of this order. Accordingly, order of the learned Single Judge dated 18.11.2019 passed in CWJC No. 20004 of 2019 stands set aside. CWJC No. 20004 of 2019 is allowed and LPA is allowed in part.

(P. B. Bajanthri, J)

(Alok Kumar Pandey, J)

abhishekk/-

AFR/NAFR	NAFR
CAV DATE	NA
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