

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9343 of 2022

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Rinku Devi Wife of Sri Narendra Paswan, Resident of Village- Mitarsenpur,
P.O.- Amba, P.S. Kutumba, District- Aurangabad.

... .. Petitioner/s

Versus

1. The State of Bihar through Secretary Social Welfare Department,
Government of Bihar, Patna.
2. The Director Social Welfare Department, Government of Bihar, Patna
3. The Divisional Commissioner, Magadh Division, Gaya.
4. The District Magistrate, Aurangabad.
5. The District Programme Officer, Aurangabad.
6. Child Development Project Officer, Kutumba, District- Aurangabad.
7. The Gram Panchayat Raj Dedhpa through its Panchayat Secretary, Block
Kutumba, District- Aurangabad.
8. The Mukhiya, Dadhpa Panchayat Kutumba, District- Aurangabad.
9. Minu Kumari, W/o Sri Sandeep Pal, Resident of Village- Basaura, P.O.-
Amba, P.S.- Kutumba, District- Aurangabad.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Amit Kumar Malik, Adv.
For the Respondent/s : Mr. Lala S N Raies, Adv.

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CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL JUDGMENT

Date : 18-02-2025

Heard the parties.

2. The petitioner is aggrieved with the order dated
28.01.2022, passed by the Divisional Commissioner, Magadh
Division, Gaya in Anganbari Revision Case No. 17 of 2018,
whereby the revision preferred by the petitioner against the
order passed by the District Magistrate, Aurangabad in



Anganbari Appeal No. 22 of 2011 came to be rejected. The petitioner also assailed the order passed by the District Magistrate as well as the District Programme Officer, whereby the appointment of the petitioner to the post of Anganbari Sevika stood cancelled and affirmed.

3. Learned Advocate for the petitioner while assailing the impugned orders passed by the District Programme Officer, District Magistrate as well as Divisional Commissioner has contended that the appointment of the petitioner to the post of Anganbari Sevika was finalized in terms of Anganbari Sevika and Sahayika Guidelines, 2006. The petitioner on being duly selected by the Aam Sabha of the Dedhpa Panchayat sent for training and after successful completion of the training of Anganbari Sevika, appointment letter was issued long back on 08.06.2007, the copy of which is marked as Annexure-P/3.

4. In pursuant to the appointment letter, the petitioner submitted her joining and started discharging her duty to the entire satisfaction of the authorities concerned, in the meanwhile, the respondent no. 9 approached this Court in CWJC No. 7499 of 2007 assailing the selection of the petitioner on the ground that her father-in-law was in government service and as per the guidelines, the very selection of the petitioner is



illegal and contrary to the prescriptions, especially Clause 3 (३) thereof.

5. The aforesaid writ petition came to be disposed off relegating the matter to the concerned authorities. In pursuant thereto, the District Programme Officer, Aurangabad initiated Anganbari Case and issued notice to all the concerned authorities. The petitioner in response to the show-cause appeared and submitted that her father-in-law was neither a government servant nor she was living in a joint family with him and for the said purpose, she produced various document, including the Article of Association of Coal India Limited, in which her father-in-law was shown to be working as a Timber Mazdoor. It was also contended that her father-in-law had been working in the State of Jharkhand and the guidelines, which came subsequent in the year 2010-2012 (Sanshodhit Margdarshika), there had clear stipulation in paragraph no. 4.9 that only those close relatives of the government servant as Wife/Daughter-in-law/relatives will not be selected for the aforesaid post, if he is posted in the same district.

6. The petitioner also produced a partition deed. However, the case of the petitioner did not find favour and finally the appointment of the petitioner came to be cancelled



vide order dated 04.10.2008 and a direction was issued for fresh selection process. The order, aforesaid, put to challenge in CWJC No. 17105 of 2008, however, it came to be withdrawn by the petitioner with a liberty to prefer appeal before the District Magistrate. The petitioner moved before the District Magistrate in Appeal No. 22 of 2011, but the said appeal came to be rejected on 12.12.2012. The petitioner further challenged the order in CWJC No. 4818 of 2013 and thereafter, liberty being granted, she preferred Revision Case No. 17 of 2018 before the Divisional Commissioner.

7. Adverting to the aforesaid facts, learned Advocate for the petitioner thus contended that all the authorities have committed serious error in not accepting the bona fide contention of the petitioner that her father-in-law was only working as a Timber Mazdoor in the Basta Cola Colliery within the State of Jharkhand and, moreover, there had already been partition in the family; in such view of the matter, the cancellation of the petitioner as Anganbari Sevika is wholly illegal and not sustainable in law.

8. On the other hand, learned Advocate for the State referring to the averments made in the counter affidavit has contended that pursuant to the direction of this Court in CWJC



No. 17 of 2008, a local enquiry was conducted by the then CDPO, Kutumba at the Anganbari Centre, Mitrasenpur and it was found that the father-in-law of the petitioner is in government service and her selection is contrary to the provisions contained in Clause 3 (e) of the Guidelines, 2006. It is also contended that the selection of the petitioner was duly governed by the Guidelines, 2006 issued by the Government of Bihar in the Department of Social Welfare. Clause 3(e) of such guidelines clearly provides that “public servant, Mukhiya, Member of Panchayat Samiti, Ward Member of Zila Parishad, etc., themselves or their relatives, sellers of various public articles (such as PDS Vendor, Mobile kerosene Oil dealer, Inter departmental post office employee etc.) relatives such as daughter/wife/daughter-in-law of the government and semi-government servants will not be selected for this post. It is also contended that the memorandum of partition duly produced by the petitioner also does not found to be genuine, inasmuch as, it was only prepared on a stamp of Rs. 10/-.

9. This Court having heard the learned Advocate for the respective parties and after carefully gone through the orders passed by all the authorities concerned, finds that the District Programme Officer long back vide its order dated 04.10.2008,



while cancelling the appointment of the petitioner directed for fresh selection.

10. Suffice it to observe that during the interregnum, much water has flown through the Ganges and after guidelines, 2006, various other guidelines have been issued by the Government of Bihar in the Department of Social Welfare in the year 2010, 2011, 2016 and lastly in the year 2019. The post, which has arisen on account of cancellation of the appointment of the petitioner, that also might have been finalized. Moreover, the claim of the petitioner was duly considered in the light of the Anganbari Sevika and Sahayika Guidelines, 2006 and on being found no merit, the same came to be rejected, which order of the District Programme Officer has been affirmed by the District Magistrate and thereafter, by the Divisional Commissioner. The two contentions of the petitioner was found to be contradictory to each other; at one hand the petitioner contended that her father-in-law had been working in Coal India on the other hand, she submitted that there had already been partitioned. The claim of the petitioner for family partition also been negated by the respondent authorities.

11. The Court, time without number, held on various occasions that the services of the Anganbari Sevika and



Sahayika are not being regulated by the statutory rules and regulations, rather governed under the guidelines and the scheme. Moreover, they are not holding a civil post at par with the government employees. Reference in this regard may be taken on a judgment of the Hon'ble Apex Court in the case of **State of Karnataka and Others v. Ameerbi and Others [(2007) 11 SCC 681]**. The Apex Court in the aforementioned decision has held unequivocally that only because the State controls and regulated the Integrated Child Development Services Programs, its employees cannot get the protection under Article 311 of the Constitution.

12. In view of the aforesaid facts and circumstances in order to give quietus to the litigation, which has arisen in relation to guidelines, 2006, and now been replaced by various subsequently guidelines, this Court does not find any reason to interfere in the impugned orders.

13. At this juncture, learned Advocate for the petitioner submits that till date, as per his instruction, the post is still vacant; the petitioner may be given liberty to apply in the fresh selection, pursuant to a new advertisement.

14. Suffice it to observe that the petitioner is always at liberty to participate in the fresh selection process, if otherwise found eligible.



15. The writ petition stands dismissed with the
aforesaid observation.

(Harish Kumar, J)

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AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	24.02.2025
Transmission Date	NA

