

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1522 of 2017

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Mamta Kumari Wife of Chaturbhuj Prasad, Resident of village - Jamuna, P.O. Malhani, Imamganj, Gram Panchayat - Sidhpur, P.S. / Block - Imamganj, District - Gaya

... .. Petitioner/s

Versus

1. The State Of Bihar
2. The Commissioner - Cum - Secretary, Social Welfare Department, Govt. of Bihar, New Secretariat, Pat
3. The Commissioner, Magadh Division, Gaya
4. The District Magistrate, Gaya
5. The District Programme officer, Gaya
6. The Child Development Project officer, Imamganj, Gaya
7. Sarita Devi, Wife of Kalapu Bhuyia, Resident of village - Jamuna, P.S. Imamganj, District - Gaya

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Gautam Shah, Advocate
For the State	:	Mr. Gyan Prakash Ojha (GA-7)
For Resp. No.7	:	Ms. Sushmita Mishra, Advocate

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CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN
ORAL ORDER

7 16-01-2025 Heard Learned Counsel for the petitioner, Learned Counsel for the State and Learned Counsel for Private Respondent no.7.

2. The present writ petition has been filed for the following relief/s:-

I. For quashing of the order dated 10.11.2016 contained in Memo No.3867 dated 17.12.2016 passed by the District Magistrate, Gaya in *Anganwadi* Case No.13/16, 20/2016 (annexed as Annexure-9) whereby and whereunder the



District Magistrate has confirmed the order of termination of the petitioner from the post of *Anganwadi Sevika* and directed to conduct a fresh *Aam Sabha* to the C.D.P.O. passed by the District Programme Officer, Gaya.

II. For quashing of the order dated 22.02.2016 passed by the District Programme Officer, Gaya in Case No.254 of 2014 (annexed as Annexure-8) by which the appointment of the petitioner dated 15.06.2013 has been terminated by the respondent from the post of *Anganwadi Sevika* and C.D.P.O., Imamganj has been directed to organize fresh *Aam Sabha*.

III. For commanding the respondent authorities to appoint the petitioner on the post of *Anganwadi Sevika* in Center Yamuna Code No.103, Ward No.4, Panchayat Sidhpur, Imamganj, Gaya.

3. Learned Counsel for the petitioner submits that the petitioner was selected on the post of *Anganwadi Sevika vide* Annexure-1, dated 17.01.2013 which was subsequently challenged by the private respondent no.7 in which the D.P.O. and the District Magistrate has passed order which are impugned here. Counsel submits that the points available to her is that private respondent was at that very time was ward member and in the meeting of 30.01.2013, respondent no.7



presided the meeting as President in which she has considered herself to be in selection list which is not permissible according to *Anganwadi* guidelines, 2011 and as such, law is in favour of the petitioner.

4. Learned Counsel for the State stated in the counter affidavit that for the selection process, contest was pending between petitioner and private respondent in which in Case No.254 of 2014, order was passed and both the parties preferred appeal before the District Magistrate, Gaya and after hearing both the parties, Appellate Authority has passed order contained in Memo No.3867 dated 17.12.2016 for selection on the basis of fresh *Aam Sabha* by terminating the petitioner and if, petitioner had got her conformity for being her suitable candidate, she must had to wait for fresh *Aam Sabha* and not to challenge the order of respondent no.4.

5. Learned Counsel for Private respondent on the other hand submits that the present writ petition has become infructuous due to the reason that after order passed by the Appellate Authority which is impugned here contained in Memo No.3867 dated 17.12.2016, fresh *Aam Sabha* has been conducted in compliance of the order passed by the Appellate Authority. By virtue of the fresh *Aam Sabha*, it was the private



respondent who is selected and joined the post and working since 28.01.2017. Counsel further submits that the said selection process of private respondent has never been challenged by the petitioner till date as after selection of private respondent in the light of the order impugned, fresh cause of action has arisen for the petitioner to challenge which she has not availed and after 8 years before this Court, she is challenging the order which has already been acted upon and not challenge the fresh cause of action. As such, petitioner has no case at all.

6. Upon perusal of the records and going through the arguments, it transpires to this Court that petitioner has challenged the order passed by the Appellate Authority dated 10.11.2016 contained in Memo No. 3867 dated 17.12.2016. It also transpires to this Court that the said order which is challenged by the petitioner has already been acted upon which resulted into selection of private respondent w.e.f. 28.01.2017 which has admittedly not being challenged either in this writ petition or by way of fresh cause of action available to her before the authorities according to the relevant *Anganwadi* guidelines.

7. In this background, this Court is of the firm view that the present writ petition has become infructuous for the



petitioner and petitioner has failed to avail the remedy for which fresh cause of action was available to her. Hence, by virtue of the pleadings made, petitioner cannot be granted any relief. Accordingly, the present writ petition stands dismissed. Liberty is hereby granted to the petitioner that she may avail further remedy available to her according to the statute by way of challenging the appointment of the private respondent afresh.

(Dr. Anshuman, J)

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