

light of the Order dated 10.07.2019, passed in L.P.A. No.1487 of 2018, by a bench of this Hon'ble Court presided over by Hon'ble Mr. Justice Rakesh Kumar and Hon'ble Mr. Justice Anjani Kumar Sharan, by which the L.P.A. case was allowed with a direction to file review of the Order dated 10.09.2018 on the ground that the Learned Collector wrongly proceeded on presumption as if the applications were invited prior to bifurcation.”

3. The matrix of facts giving rise to the present petition is/are follows:

4. The matter relates to selection of the **Anganwadi Centre No. 176** in the district of Darbhanga for which the review petitioner was one of the applicant for the post of **Anganwadi Sevika**. Pursuant to her selection, one **Mena Kumari @ Meena Devi** (respondent no.6) complained before the authorities that she was also an applicant for the said post but the local ‘Mukhiya’ on 23.05.2007 without any information to the villagers held panchayat and selected the lady. As Meena Devi’s complaint went unheeded, she preferred **CWJC No. 12515 of 2011 (Meena Devi vs. State of Bihar & Ors.)** which



was disposed of on **26.09.2011** directing the respondents to expedite the matter on her grievance and conclude it within three months.

5. The order passed by the **Collector-cum-District Magistrate, Darbhanga in Case No. 82/2011-12 dated 06.01.2014** records that he sought report from the District Program Officer, Darbhanga who submitted the same vide letter no. 1781 dated 24.09.2013. As per it, the Centre No. 176 has been created in Ward No. 07 while Centre No. 24 has come under Ward No. 11 while Centre No. 174 went under Ward No. 4. Meena Devi belongs to Ward No.4.

6. Further, as per the order of the Collector, Darbhanga, though process has been completed after the creation of new centre, no fresh application was sought for which is against the principle of natural justice. He also took second point that the Panchayat did not used 'Dugdugi'/other method to announce/inform the eligible candidates that the selection process is to be conducted.

7. The order further records that though the Centre includes Other Backward Classes majority, still the selection was made from the **Extremely Backward Class** and in that background, the process of selection has to be interfered with.



He as such, canceled the selection of **Uma Bharti** with a direction to take steps for fresh selection process within a month.

8. Aggrieved, the petitioner preferred appeal before the **Commissioner, Darbhanga Division, Darbhanga** which came to be dismissed on **11.01.2017**. The concerned respondent recorded the facts and held that the order of the Collector, Darbhanga need no interference.

9. Still aggrieved, the writ petition bearing **CWJC No. 3121 of 2017** was filed and the Writ Court (**Hon'ble Mr. Justice Shivaji Pandey as his lordship then was**) recorded in the concluding paragraphs of the order dated **10.09.2018** as under:

The basic thrust has been raised by the petitioner that Mina Devi cannot compete with the petitioner on the ground that she is not the resident of the feeder area that has been created after 23.5.2007 whereas the petitioner's family comes within the feeder area of Center No. 176 but, in the present case, the question is very simple that the advertisement was not published after the creation of the feeder area and that is



the reason for interference made by the Collector and which has been approved by the Commissioner and, thus, this Court does not find any substance and merit to interfere with the order of the Collector and the Commissioner.

Let the entire process of selection be initiated by the competent person and that should be completed within a period of six months from the date of receipt/production of a copy of this order. While making selection, the authority will take into consideration, if it is possible, the experience of the petitioner.

With the aforementioned observation and direction, this writ application is disposed of.

(Bold/underline by this Court)

10. Aggrieved, **the L.P.A. No. 1487 of 2018** was preferred. The Division Bench took up the matter on **10.07.2019** and the same was disposed of allowing the petitioner to file review petition. This led to the filing of the present petition.

11. Mr. Chitranjan Sinha, learned Senior Counsel has taken this Court to the Annexure-4 of the writ petition to show



that on 14.05.2007 i.e. after **the Centre No. 176** was created, the applications were sought for selection of **Anganwadi Sevika**. He submits that subsequently on 23.05.2007, the selection process took place in the 'Aam Sabha' and the lady was selected as the most eligible candidate. As such, there was error on record in holding that no fresh advertisement was made after the creation of Centre No. 176. He further submits that in that background, the petitioner is entitled for the relief.

12. Learned State counsel on the other hand submits that the petitioner is harping on the resolution dated 05.03.2007 to show that the Centre was created prior to the selection. However, the fact remains and the Panchayat authorities have accepted that they never informed about it to the respondents.

13. Further, the minutes of the 'Aam Sabha' shows that in a haste, the process has been completed inasmuch as they have not even recorded anywhere as to whether the fresh application was sought for after the creation of the Centre and/or the proper announcement was made even when the 'Aam Sabha' was held on 23.05.2007 as recorded in the order of the Collector.

14. The further submission is that it being other backward class majority centre, the 'Aam Sabha' also failed to



record that since there is no eligible candidate from the backward class community, the petitioner being from the most backward class and only candidate found eligible has been picked up.

15. Learned State counsel has taken this Court to the selection process to show that under the remarks column, each and every candidate has been shown to be ineligible and only the petitioner was found to be fit person. Even the details of the petitioner is/are missing and only the word 'स्वीकृत' with 56% marks has been recorded.

16. The submission is that the Writ Court in that background simply wanted fresh selection process to be initiated and further actually recorded that if the petitioner is/was eligible, her experience be taken into account.

17. This Court has gone through the facts of the case as also the submissions put forward by the parties. Though the claim of the petitioner as submitted by the learned Senior Counsel is that the centre was created on 05.03.2007, learned State counsel has clearly refuted it and had submitted that it was never informed to the authorities. In that background, the court is unable to accept or reject the actual date when the Centre came into existence.



18. However, the Court cannot ignore the findings of the respondents that the panchayat did not adhere to the rules while selecting the petitioner inasmuch as there is nothing on record to show that announcement was made by using '**Dugdugi**' before the 'Aam Sabha' decided to select the petitioner. Thus the contention of the petitioner that the Writ Court's order taking into account that no fresh advertisement was issued being wrong has been allowed, has to be rejected as the second reasoning of the Collector and endorsed by the Commissioner is/are that ineligible candidates were not properly informed.

19. Further, this Court cannot ignore the fact that a bare perusal of the document/'Aam Sabha' on record shows that only to select the petitioner, all other candidates have been shown to be ineligible. There is nothing on record in the minutes/proceeding to show that though the centre belongs to other backward classes majority, there being no eligible OBC candidate, the EBC candidate is selected.

20. Further, this Court has noted that one **Sabnam Khatoon** was also a candidate at Serial number one with 79.41 per cent and well ahead of the petitioner's 56%. However, only recording that she belongs to different area and without



incorporating any further details as to from which area she belongs to, her candidature was rejected. Further, each and every candidates claim has/have been rejected with single remark: **either they do not belong to the centre and/or their father-in-law is a retired government servant receiving pension.** No further detail whatsoever has been recorded in the remarks column about the area of the candidate and/or the name of father-in-law, the post he held before the retirement.

21. This Court has reason to believe that only to ensure that this petitioner gets selected, the said grave illegality has been committed.

22. In that background, one of the observation of the Collector, Darbhanga endorsed by the Divisional Commissioner that before the 'Aam Sabha' was held on 23.05.2007, the general announcement to the public was not made through 'Dugdugi' has/have to be accepted. Further, considering the grave illegality that is manifested from the record, at one point, this Court wanted the respondents to initiate appropriate civil/criminal steps against the then 'Mukhiya'. However, considering that the matter is of the year 2007, it refrains from doing so.

23. The stand in the review petition as narrated by the



learned Senior Counsel is that the Writ Court erred in holding that Collector opined opened that after creation of the Centre, no fresh application was invited. However, learned Senior Counsel missed another point incorporated by the Collector, Darbhanga that no proper announcement was made before the 'Aam Sabha' took place.

24. The Writ Court in that background took the most reasonable path in observing that to clear the cobweb, a fresh selection be held. This Court fully concurs with the observation of the learned Writ Court.

25. In the opinion of the Court, the reasoned order dated 10.09.2018 passed by the Writ Court where not only direction was given to the respondents to initiate fresh selection process, it even observed that the experience of the petitioner be taken into account need no review.

26. The review petition is bereft of merit, no re-look is required, is dismissed.

(Rajiv Roy, J)

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