

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1004 of 2023

Manwara Khatoon W/o Abu Taleb, Resident of Village- Marangi Tola, P.S.-
Barari, District- Katihar.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secreary, Social Welfare Department, Govt. of Bihar, Patna.
2. The Director Integrated Child Development Services, Bihar, Patna.
3. The Divisional Commissioner, Purnea.
4. The District Magistrate, Katihar.
5. The District Programme Officer, Katihar.
6. The Child Development Project Officer, Barari, District-Katihar.
7. Firoza Khatoon, W/o Abdul Rahim, Resident of Village-Marangi Tola, P.S.-
Barari, District-Katihar.
8. The Bihar State Madarsa Education Board, Patna, through its Secretary, P.S.
and District- Patna.
9. The Examination Controller, Bihar State Madarsa Education Board, Patna,
District- Patna.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. D.K.Sinha, Sr. Advocate Mr. Bhola Prasad, Advocate
For the State	:	Mr. S.K. Mandal, S.C.-3 Mr. Bipin Kumar, AC to SC-3
For the Madarsa Board	:	Md. Aslam Ansari, Advocate
For the Private Respondent	:	Mr. Sanjay Kumar, Advocate

CORAM: HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL ORDER

12 23-03-2026 Heard learned Senior counsel for the petitioner,

learned counsel for the State of Bihar, learned counsel for the

Bihar State Madarsa Board and learned counsel for the

respondent no.7.

2. The petitioner has filed the instant writ application
praying for quashing the order dated 22.11.2022 passed by the



Divisional Commissioner, Purnea whereby Anganbari Revision Case no.4 of 2022 filed by the respondent no.7 was allowed and the order dated 24.1.2022 passed by the District Programme Officer, Katihar in Miscellaneous Anganbari Appeal no.86 of 2018 was set aside.

3. The relevant facts in brief are that on the respondent authorities coming out with a notice for filling up the vacancy of Anganbari Sevika of Centre no.288, Ward no.9 in Jagdishpur Gram Panchayat, Barari, Katihar, both the petitioner and the respondent no.7 filed their applications. The respondents proceeded to prepare the merit list and finally the respondent no.7 was appointed.

4. The petitioner filed Miscellaneous Anganbari Appeal no.86 of 2018 which was considered by the District Programme Officer, Katihar. By his order dated 24.1.2022, the District Programme Officer was pleased to allow the said appeal, setting aside the appointment of respondent no.7 and directed for appointment of the petitioner on the same.

5. The respondent no.7 being affected by the said order, preferred Anganbari Revision no.4 of 2022 before the Divisional Commissioner, Purnea. By order dated 22.11.2022, the Divisional Commissioner was pleased to allow the revision



preferred by the respondent no.7 and set aside the order dated 24.1.2022 passed by the District Programme Officer, Katihar.

6. Aggrieved by the order dated 22.11.2022, the petitioner has preferred the instant writ application against the same.

7. It is submitted by learned Senior counsel appearing for the petitioner that on perusal of the order dated 24.1.2022, it would transpire that the Incharge Medical Officer has submitted a report dated 20.4.2018 mentioning therein that the respondent no.7 who was working on the post of Aasha had on an earlier occasion given her date of birth as 17.8.1972 and now in her application for appointment as Anganbari Sevika as 31.3.1990. Further in reference to the order impugned passed by the Divisional Commissioner, it is submitted that the question which was to be decided was as to whether while considering the marks obtained by the applicants in the matriculation, whether the marks obtained in all the subjects were to be considered or the marks obtained in the optional subject was to be left out and thereafter the remaining marks were to be considered. It is submitted that this Court had directed the Madarsa Board to file their affidavit. Referring to Annexure R/1 to the supplementary counter affidavit filed on behalf of the



Madarsa Board, it is submitted that the Examination Controller of the Bihar State Madarsa Board, Patna has categorically mentioned therein that marks obtained in all the subjects including the optional subjects are to be considered as compulsory. It is thus submitted that once marks obtained in all the subjects are taken into consideration, the petitioner having obtained 793 marks against respondent no.7 who obtained 792 marks, the petitioner should be appointed setting aside the order passed by the Divisional Commissioner.

8. In response, learned counsel for the State of Bihar referring to the counter affidavit filed submits that as per the guidelines issued by the ICDS, Bihar, the same clearly spells out that while considering the qualification of matriculation or equivalent examination in appointment of Anganbari Sevika, the marks obtained in the matriculation examination is to be considered after excluding the marks in the extra/optional paper.

9. Learned counsel appearing for the private respondent agreeing with the submissions made by learned counsel for the State of Bihar submits that excluding the marks obtained in the optional paper, the respondent no.7 having obtained 734 marks in comparison to the petitioner's 728 marks, there is no illegality in the order of the Divisional Commissioner



setting aside the order of the District Programme Officer and appointing the respondent no.7. It is submitted that there is no merit in the writ application and the same be dismissed.

10. Heard learned counsel for the parties and perused the material on record.

11. The matter relates to appointment of Anganbari Sevika at Centre no.288, Ward no.9 in Jagdishpur Gram Panchayat, Barari, Katihar. Bereft of unnecessary details, it may be observed here that the Guidelines issued in the year 2016 applicable in the case deals with the manner of appointment of Anganbari Sevika. Clause 4 thereof which deals with educational qualification clearly states that the applicant should be matriculate or having an equivalent educational qualification which shall be considered in selection, taking into consideration the marks obtained therein excluding the additional/additional subject meaning that the marks obtained in the optional subject is to be excluded while preparing the merit list.

12. Coming to the facts of the instant case, it is not in dispute that while the total marks obtained by the petitioner and the respondent no.7 are 793 and 792 respectively, excluding the marks obtained in the optional subjects, the marks obtained by the petitioner and the respondent no.7 would come to 728 and



734.

13. It would be relevant to mention here that after filing of the applications, a merit list was prepared by the respondent authorities and which has been brought on record as annexure to the counter affidavit filed on behalf of the respondent no.7. It transpires from the same that the authorities concerned prepared the said merit list in accordance with the 2016 Guidelines excluding the marks obtained by the candidates in the optional subject. The name of the respondent no.7 which figures at sl. no.4 is shown to have obtained 734/1100 ie 66.72% marks and the petitioner who is at sl. no.9 is shown to have obtained 728/1100 ie 66.18% marks.

14. Taking into consideration clause 4 of the 2016 Guidelines together with the merit list, there being no doubt in the opinion of this Court about the respondent no.7 having obtained higher marks than the petitioner, the Commissioner, Purnea Division by the order impugned rightly allowed the revision preferred by the respondent no.7 and set aside the order dated 24.1.2022 passed by the District Programme Officer, Katihar.

15. The Court finds no error in the order dated 22.11.2022 of the Divisional Commissioner, Purnea and no



merit in the instant case.

16. The writ application is dismissed.

(Partha Sarthy, J)

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