

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.695 of 2023

In

Civil Writ Jurisdiction Case No.10524 of 2017

Ram Dulari Devi, aged about 41 years (Female), wife of Brij Mohan Chaudhary, Resident of Village- Phulaut, West, Ward No. 9, Post Office- Phulaut, Block-Chausa, P.S- Chausa, District- Madhepura.

... .. Appellant

Versus

1. The State of Bihar.
2. The Director, Social Welfare I.C.D.S Directorate, Government of Bihar, Patna.
3. The Commissioner, Koshi Division, Saharsa.
4. The District Magistrate, Madhepura, District- Madhepura.
5. The District Program Officer, Madhepura, District- Madhepura.
6. The Child Development Project Officer, Chausa Block Chausa, P.S.- Chausa, District- Madhepura.
7. L.S. Block Chausa, P.S. Chousa, District- Madhepura.
8. The Ward Member, Ward No. 9, Panchayat Phulaut, West, P.S.- Chausa, District- Madhepura.
9. Manita Kumari, Anganbari Sevika, Wife of Krishna Kumar Sah, Resident of Village-Phulaut West Panchayat, P.S- Chausa, District- Madhepura.
10. Nibha Kumari, Wife of Arun Suryabanshi, Resident of Village-Phulaut West, Ward No. 7, Post Office-Phulaut Block, Chausa, P.S.- Chausa, District- Madhepura.

... .. Respondents

Appearance :

For the Appellant : Mr. Shivnandan Sah, Advocate
For the State : Mr. Gyan Prakash Ojha, G.A.-7

CORAM: HONOURABLE MR. JUSTICE SUDHIR SINGH

and

HONOURABLE MR. JUSTICE SHAILENDRA SINGH

ORAL ORDER

(Per: HONOURABLE MR. JUSTICE SUDHIR SINGH)

4 09-04-2026 Heard learned counsel for the appellant and learned
counsel for the State.

2. The present *intra court* appeal has been preferred



against the judgment and order dated 10.02.2023 passed by the learned Single Judge in C.W.J.C. No. 10524 of 2017, whereby the writ application filed by the appellant was dismissed.

3. The present dispute arises out of the selection/appointment to the post of Anganbari Sevika for Ward No. 9, Anganwari Centre No. 153, situated at Village Phulout (West), District Madhepura. The appellant claims to be a permanent resident of the said ward, belonging to the Extremely Backward Class, possessing requisite educational qualifications and higher merit. It is her case that she had the support of the majority of beneficiaries in the general body meeting dated 23.08.2014 and was the most suitable for the said post.

4. The dispute essentially relates to the selection of Respondent No. 10, who, according to the appellant, does not belong to Ward No. 9 and was, therefore, ineligible. It is further alleged that the selection process suffered from irregularities and violation of Government guidelines, particularly with respect to ward-based eligibility and beneficiary support. Despite this, Respondent No. 10 was selected and appointed, and the appellant's candidature was ignored. The petitioner challenges the said selection as well as the subsequent orders affirming it, contending that material facts and statutory



requirements were ignored.

5. In the writ petition, the appellant had sought the following reliefs:

“1. For issuance of Certiorari, setting aside the Order dated 24.04.2017, passed by the District Magistrate, Madhepura vide Anganbari Appeal No. 42 of 2014 affirming the Order dated 16.12.2014, passed by the District Programme Officer, Madhepura by which petitioner’s case has been dismissed.
2. For issuance of Mandamus, directing the Respondent authority concerned to reinstate the petitioner on the post of Anganwari Phulout (West) Ward No. 9 under Gram Panchayat Phulout Block Chousa in District Madhepura.”

6. The learned Single Judge, while dismissing the said writ petition, observed as follows:

“In view thereof, the writ petition would not lie with regard to the selection process of Anganwadi worker and is, accordingly, dismissed.
However, while dismissing the writ petition, it is observed that if the petitioner still feels aggrieved, she may approach the competent authority.”

7. Learned counsel for the appellant submits that the



learned Single Judge failed to appreciate that an appointment which is illegal and void ab initio cannot be sustained merely on the ground of continuation. It is further submitted that Respondent No. 10 was not a resident of Ward No. 9 and thus did not satisfy the essential eligibility criteria. It is further submitted that relevant materials, including the voter list and applicable guidelines, were not properly considered, thereby vitiating the selection process.

8. Per contra, learned counsel for respondent submits that the selection of Respondent No. 10 was made strictly in accordance with the governing guidelines. It is submitted that Respondent No. 10 fulfilled all eligibility conditions, including residence, category requirement, and merit position. The appellant's claim was duly considered and rejected by the District Programme Officer, which decision was affirmed by the District Magistrate. It is thus submitted that no illegality exists warranting interference.

9. The limited issue which arises for consideration is whether, in the facts and circumstances of the present case, any interference is warranted in exercise of *intra- court* appellate jurisdiction with the order passed by the learned Single Judge.

10. Upon consideration of the materials on record and



the submissions advanced on behalf of the parties, it appears that the learned Single Judge has comprehensively examined the scope of the writ petition and correctly observed that challenges to the selection of Anganwadi workers ordinarily do not lie under writ jurisdiction.

11. It is to be noted that engagement/selection to the post of Anganwadi Sevika is not a statutory appointment under any service rules, but is part of a welfare scheme framed by the Government, namely the Integrated Child Development Services (ICDS). Such engagement is governed by executive instructions and guidelines, and does not confer any enforceable statutory right so as to warrant interference under writ jurisdiction.

12. It is well settled that in matters arising out of selection under government schemes, particularly where the engagement is honorary or scheme-based in nature, the scope of judicial review under Article 226 of the Constitution is extremely limited. In such cases, writ jurisdiction is not ordinarily invoked to adjudicate disputes relating to comparative merit, eligibility, or local preference.

13. In *State of Karnataka vs. Ameerbi & Ors.*, reported in (2007) 11 SCC 681, the Hon'ble Supreme Court has



categorically held that Anganwadi workers are engaged under a welfare scheme, do not hold civil posts, and their engagement is non-statutory in nature, thereby limiting enforceability of rights under writ jurisdiction. The relevant part of the said order reads as follows:

“8. The posts of Anganwadi workers are not statutory posts. They have been created in terms of the scheme. It is one thing to say that there exists a relationship of employer and employee by and between the State and Anganwadi workers but it is another thing to say that they are holders of civil post. We are not oblivious of the fact that their presence in their respective villages is extremely important. They are supposed to make significant contribution to the society. They, we understand, are required to carry a large number of activities, primarily amongst them being the welfare of the children.

..

11. Anganwadi workers, however, do not carry on any function of the State. They do not hold post under a statute. Their posts are not created. Recruitment rules ordinarily applicable to the employees of the State are not applicable in their case. The State is not required to comply with the constitutional scheme of equality as adumbrated under



Articles 14 and 16 of the Constitution of India...”

14. Further, in the case of ***Urmila Kumari vs. the State of Bihar and Ors. reported in 2024(1) BLJ 361***, following observations were made:-

“9. Another aspect of the matter is that the post of Anganbari Sevika is neither a post having security of tenure nor a civil post, hence it is sufficient that after due notice to the petitioner and hearing her, an order is passed, whereafter adequate opportunity is granted by the appellate authority and in case the incumbent is still aggrieved, she may approach the learned Civil Court of competent jurisdiction. In this connection, it would be apt to refer to a judgment rendered by a co-ordinate Bench of this Court in the case of Seema Kumari vs. The State of Bihar & Ors., reported in (2015) SCC Online Pat 7267, paragraphs nos. 9 to 11 whereof, are reproduced herein below:-

“9. As noted above, the Anganbari Sevika is not a government servant and has no protection under Article 311(2) of the Constitution of India so as to envisage the concept of regular departmental proceeding. The petitioner was given a notice. She was informed about the allegation against her. She had filed her show-cause reply which was considered by the District Programme officer and when the order went against her, she had also been given adequate opportunity by the appellate authority who, in fact, had himself got the matter verified by referring the matter to the Bihar Sanskrit



Board.

10. In that view of the matter, this Court would not find any error in the impugned order of termination of the services of the petitioner when it is found that the petitioner had got appointment by producing a document in support of qualification which was found to be incorrect/forged.

11. Thus for the reasons indicated above, this application must fail and is, accordingly, dismissed.”

15. In view of the aforesaid settled principles, this Court is of the considered opinion that the writ petition itself was not maintainable, as the dispute pertains to engagement under a government scheme and does not involve violation of any statutory provision or enforceable legal right.

16. This Court, therefore, finds that the learned Single Judge has correctly appreciated the legal position and has rightly declined to exercise writ jurisdiction, leaving it open for the appellant to avail alternative remedies, if so advised.

17. Since the writ petition itself was not maintainable, this Court does not deem it appropriate to enter into the merits of the rival claims with respect to eligibility, residence, or alleged irregularities in the selection process.

18. In view of the discussions made hereinabove, no ground for interference is made out in exercise of intra-court appellate jurisdiction.



19. Accordingly, the present intra court appeal stands dismissed.

20. It is, however, clarified that the appellant, if so advised, may avail the liberty granted by the learned Single Judge to approach the competent authority/forum in accordance with law.

21. Pending application(s), if any, shall also stand disposed of.

(Sudhir Singh, J)

(Shailendra Singh, J)

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