

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.10318 of 2020

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Sapna Kumari W/o Mantu Prasad, Resident of Vill and P.O.- Inarwa Fulwar,
Ward No. 04, PS- Lakhaura, Dist- East Champaran.

... .. Petitioner/s

Versus

1. The State of Bihar through the Secretary, Department of Social Welfare, Government of Bihar.
2. The Director, I.C.D.S. Directorate, Social Welfare, Government of Bihar, Patna.
3. The District Magistrate, East Champaran at Motihari.
4. The District Programme Officer (ICDS), East Champaran at Motihari.
5. The Child Development Project Officer, East Champaran.
6. Rukhsana Khatoon W/o Azaharuddin, Vill and P.O.- Inarwa Fulwar, Ward No. 04, PS- Lakhaura, Dist- East Champaran.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Shantanu Kumar, Adv.
For the Respondent/s : Mr. Prashant Pratap, G.P
For the Respondent No.6: Mr. Sanjeev Kumar Singh, Adv.

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CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR

ORAL JUDGMENT

Date : 02-07-2026

Heard Mr. Shantanu Kumar, learned Advocate for the
petitioner and learned Advocate for the State.

2. Mr. Praveen Ranjan, learned Advocate appearing
on behalf of the respondent no. 6, at the outset, submits that he
is not in opposition to the prayer of petitioner and as much not



pressing the counter affidavit filed on her behalf.

3. The challenge in the present writ petition is made to an order dated 17.06.2020 passed in Misc. Appeal Case No. 03 of 2019 by the learned District Magistrate, East Champaran, whereby the learned Appellate Authority has been pleased to order for removal of the petitioner from the post of Anganwadi Sevika, and directed for new selection process at Bankatwa Ward No. 4, besides further direction for recovery of entire honorarium amount from the petitioner for the period she worked.

4. The petitioner had initially applied for the post of Anganwadi Sevika along with other eligible candidates against Advertisement dated 18.07.2013. Upon verification of their certificates, a merit list was published on 04.09.2013. The answering respondent having highest (60.20%) merit point was placed at serial no. 1, while petitioner having only 48.00% merit point was placed at serial no. 6. Subsequently, a fresh merit list was published and the petitioner was placed at serial no. 2 and the selection of the petitioner was accordingly made by taking note of the provision of the Anganwadi Sevika/Sahaika Selection Guideline, 2011 that in case of non-availability of the candidate of Bahulya Varg, the candidate of the second category given in the guidelines shall be appointed.

5. Aggrieved by the selection of the petitioner,



respondent no. 6 challenged the same by filing Case No. 39 of 2016 before the District Programme Officer, ICDS, Motihari, East Champaran. Since the challenge of the selection of the petitioner was also on the ground of fabricated certificate of the matriculation, therefore, a report was called for from the Bihar School Examination Board and on being no infirmity found in the selection of the petitioner, the Case No. 39 of 2016 stood dismissed. The order of the District Programme Officer was challenged in Misc. Case No. 03 of 2019 before the Court of Collector-cum District Magistrate, East Champaran, Motihari.

6. The petitioner, on notice, entered her appearance and submitted a detailed response. However, while denying the claim of the respondent no. 6, the District Magistrate has come out with the finding that the petitioner does not fall within the category of Bahulya Varg and, as such, her selection does not appear to be in accordance with the provisions of the scheme. However, while rejecting the appeal, the District Magistrate further went to the extent whereby, he held that since the petitioner has failed to bring on record cogent materials in support of her claim with respect to two school leaving certificates and thus suspecting their genuineness, directed for recovery of all the honorarium paid to the petitioner against discharging her services on the post of Anaganwadi Sevika.

7. Mr. Shantanu Kumar, while assailing the impugned



order has submitted that though the impugned order is against the provisions of the Anganwadi Sevika/Sahaika Scheme, 2011. However, the petitioner has no hesitation to participate in the fresh selection process, in case she is found eligible. However, she vehemently challenged the part of the order passed by District Magistrate to the extent whereby the recovery of the honorarium of the petitioner has been sought for.

8. It is submitted that once the District Programme Officer, ICDS on receipt of the report from Bihar School Examination Board has given a specific finding that there is no infirmity and any irregularity in the matriculation certificate of the petitioner and the same has been duly verified by the authority of the Board. In such circumstances, only based upon suspicion with regard to two school leaving certificates submitted by the private respondent without any proceeding, same cannot sustain in the eyes of the law. It is submitted that suspicion howsoever strong, it cannot take the place of proof unless it is proved, after giving proper opportunity of hearing to the petitioner in a full fledged proceeding.

9. To support the aforesaid contention reliance has also been placed on a Bench decision of this Court in CWJC No. 7527 of 2014 (*Pinki Devi Vrs The State of Bihar and Ors.*) as well as the order passed in CWJC No. 8239 of 2017 (*Smt. Anita Kumari Vrs The State of Bihar and Ors.*) on 16.12.2026



which came to be disposed off, wherein, the Court has held that once it is not disputed by the respondent authorities that the petitioner had worked for a certain period for which she was paid honorarium, the same cannot be recovered on the ground of mere irregularity of the appointment of the petitioner.

10. Learned Advocate for the petitioner further drew the attention of this Court to paragraph no. 7 of the counter affidavit wherein, it is stated that the certificate of the petitioner was sent for verification to the Secretary, BSEB, Patna by the C.D.P.O. through its Letter No. 54 dated 13.03.2014 and in response to that letter, the Secretary, BSEB, Patna vide its Letter No. 3256 dated 02.06.2014 represented that the certificate of the petitioner is genuine as per record of the Board.

11. Having considered the materials available on record, this Court finds substance in the submission of learned Advocate for the petitioner. Once the genuineness of the matriculation certificate of the petitioner was duly verified by the Bihar School Examination Board and it has been categorically reported by the Secretary, B.S.E.B. that the certificate of the petitioner is genuine as per the record of the Board. Mere allegation or any suspicion with regard to the genuineness of the school leaving certificate without any independent enquiry would not suggest that the appointment of the petitioner is based upon a fraudulent means and *void ab*



initio. Though, the appointment of the petitioner has been set aside on the ground only that she does not fall within the Bahulya category nonetheless the District Magistrate observed as to under which circumstances her selection has been done and it has not even been disclosed in the proceeding of Aam Sabha directed for recovery of honorarium which action is not at all permissible in such a casual manner. The appointment of the petitioner in the aforesaid circumstances may be termed as illegal, but in no circumstances, it can be said to have been obtained on the basis of fraud. Once this Court comes to the conclusion that the very appointment of the petitioner is not obtained by claiming fraud or *void ab initio*, in such circumstances, the recovery of honorarium for the services, which she had rendered after her selection till the appellate order, is wholly unsustainable in law. This Court may refer to the decision rendered in the case of Man Singh vs. State of Uttar Pradesh: LiveLaw (SC) 341, where the Hon'ble Supreme Court ruled that even if the appointment is irregular, if the employee had discharged the duties and in lieu of the duties he had to be paid.

12. Accordingly, this Court set aside the order dated 17.06.2020 to the extent whereby the District Magistrate has directed for recovery of honorarium amount from the petitioner for the period she worked.



13. The writ petition stands allowed to the extent indicated hereinabove.

(Harish Kumar, J)

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AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	07.07.2026
Transmission Date	NA

