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**(2009) 05 AHC CK 0033**  
**In the Allahabad High Court**

Anita Gautam

APPELLANT

Vs

State of U.P. and Others

RESPONDENT

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**Date of Decision :** 06-05-2009

**Acts Referred:**

**Citation :** (2009) 3 AWC 2617 : (2009) 122 FLR 63

**Hon'ble Judges :** Rakesh Tiwari, J

**Bench :** Single Bench

**Final Decision :** Dismissed

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## Judgement

Rakesh Tiwari, J.—Heard Sri D.K. Pandey, Sri Ajay Kumar Srivastava appearing on behalf of respondent No. 5, learned standing counsel on behalf of respondent Nos. 1 to 4 and perused the record.

2. No counter-affidavit has been filed by Sri A.K. Srivastava, learned Counsel appearing on behalf of respondent No. 5.

3. The petitioner has challenged the validity and correctness of the impugned order dated 15.12.2007, passed by the District Magistrate, Azamgarh directing the respondents to appoint respondent No. 5 as Aganbari Karyakatri in the village Utargawan, district Azamgarh.

4. The contention of the learned Counsel for the petitioner is that the selection on the post of Aganbari Karyakatri was made in the year 2006 and only one candidate was selected in that selection. The selected candidate resigned from the service and, therefore, the selection is exhausted. Accordingly, vacancy was re-advertised on 30.10.2007 but the respondents instead of making fresh selection have appointed respondent No. 5 who was at serial No. 2 in the earlier select list in the selection held in 2006 for the purpose of Aganbari Karyakatri.

5. Learned Counsel for the petitioner has further submitted that once the list of select candidates is exhausted after selection was made and the candidate at serial No. 1 joined the post, no selection from the said list stood exhausted and

no other candidate from the said list can be appointed in fresh selections for which fresh selection proceedings are to be initiated.

6. No counter-affidavit has been filed by the State as well as respondent No. 5.

7. It has been stated that vacancy for the purpose of Aganbari Karyakatri in the village Utargawan, district Azamgarh was advertised by the District Magistrate through Bal Vikas Pariyojana Officer, Mohammadpur, Azamgarh on 19.1.2006 in which Tara Devi wife of Raju who had secured the maximum marks was selected and respondent No. 2 was placed in second position. It is averred in paragraph 5 of the counter-affidavit that Tara Devi was selected on the basis of some forged documents, therefore, after joining the post an inquiry was conducted and her services were terminated on 20.9.2007. It is also averred that respondent No. 5 on coming to know about the facts and the forgery committed by the candidate Smt. Tara Devi who was placed on serial No. 1 prayed the District Magistrate to appoint her. Compelled by the inaction of the District Magistrate respondent No. 5 filed Civil Misc. Writ Petition No. 47615 of 2007 in which the Court vide its order dated 27.9.2007 directed to decide the representation of the petitioner. In these circumstances the District Magistrate has decided the representation holding that respondent No. 5 was entitled to be appointed as Aganbari Karyakatri in place of Tara Devi.

8. In my opinion, the contention of counsel for the petitioner, has no force. Admittedly from the record it is apparent that Smt. Tara Devi who has secured first position was appointed on the post of Aganbari Karyakatri on the basis of forged papers, therefore, this fact will invalidate or exhaust the select list. Had her selection been in accordance with law then certainly the contention of the counsel for the petitioner would have some force. Once District Magistrate will decide the representation under the direction of the High Court with a direction that Tara Devi was appointed on the basis of forged documents that the effect would be that her name would stand deleted from the list of select candidates.

9. At this stage counsel for the petitioner informs that respondent No. 5 has also been selected as safai karamchari, she has been married and now resident of another village.

10. Normally, the appointment of Aganbari Karyakatri is a contractual posts for a period of one year. It has been held by this Court that every year selection is to be made after issuance of advertisement etc., in accordance with law.

11. In this view of the matter, since the selection was for the year 2006-07, the respondents may now proceed for fresh selection in accordance with law.

12. For the reasons stated above, the writ petition is dismissed.