
(2004) 12 PAT CK 0067
In the Patna High Court
Case No : CWJC No. 6010 of 2004

Bindu Kumari and Others

APPELLANT

Vs

State and Others

RESPONDENT

Date of Decision : 21-12-2004

Acts Referred:

Citation : (2005) 1 BLJR 156 : (2005) 1 PLJR 506

Hon'ble Judges : V.N. Sinha, J

Bench : Single Bench

Judgement

V.N. Sinha, J.—Heard.

2. The petitioners have filed this writ application for a direction to the Mukhiya, Paroria Gram Panchayat, respondent No. 3 under whose presidentship the meeting of the Gram Sabha of Paroria Gram Panchayat was held from 12 to 14.6.2003 for appointment on the post of Sewika and Sahayikain the said Gram Panchayat, to sign the proceedings drawn after conclusion of the aforesaid meeting held from 12 to 14.6.2003 and is contained in Annexure-1 series and thereafter to further direct the respondents to issue appointment letters to petitioner Nos. 1 to 5 for the post of Sewika and petitioner Nos. 6 and 7 for the post of Sahayika as they were selected for appointment on the post of Sevika and Sahayika by the Aam Sabha in the meeting conducted on 12 to 14.6.2003. In support of the said prayer petitioners have relied on the report to the Child Development Project Officer, Hassanpur, as contained in her letter No. 8, 56 and 57, dated 19.6.2003 and 26.7.2003 as contained in Annexures-2, 4 and 5.

3. With reference to the aforesaid three reports it is submitted that when the Mukhiya, respondent No. 3 refused to sign the proceedings of the Aam Sabha dated 12 to 14.6.2003, Annexure-1, even after the selection of the petitioners, the Child Development Project Officer, who has already put her signature over the aforesaid proceedings, invited the attention of the Sub- Divisional Officer, Rosera, Block Development Officer, Hassanpur and District Welfare Officer, Samastipur, vide aforesaid reports contained in Annexures-2, 5 and 4

categorically deprecating the conduct of the Mukhiya, respondent No. 3, that he for ulterior reasons was not signing the proceedings of the Aam Sabha for appointment of the petitioners on the post of Sewika and Sahayika in the Gram Panchayat and thereby was acting contrary to public interest as residents of the said Panchayat remained deprived of the services of Sevika and Sahaykia.

4. The official respondents, namely, 2, 5 and 6, have filed counter-affidavit duly affirmed by Shrimati Shobha Kesri, Chief Development Project Officer, Hassanpur, wherefrom it appears that the official respondents have taken a categorical stand that appointment letters in the light of resolution of the Aam Sabha of the Paroria Gram Panchayat dated 12 to 14.6.2003, Annexure-1 series could not be issued as those proceedings have not been countersigned by the Mukhiya of Paroria Gram Panchayat, respondent No. 3. Had he signed the same there was no difficulty in granting the prayer of the writ petitioners.

5. Mukhiya, Paroria Gram Panchayat, respondent No. 3 has filed his separate counter-affidavit wherefrom it appears that he candidly admits that meeting of the Aam Sabha of Paroria Gram Panchayat was held from 12 to 14.6.2003 under his presidentship but he refused to sign the proceedings contained in Annexure-1 series when he learnt that those selected during the meeting were not the persons coming from the category of below the poverty line strata of the society and as such, were disqualified for appointment as Sewika and Sahayika in terms of the circular of the Welfare Department of the State Government bearing letter No. 1129 dated 13.6.1998, Annexure-R-3, It has further been asserted in the said counter-affidavit that no sooner he learnt of the said illegalities he also invited the attention of the Sub-Divisional Officer, Rosera, vide his letter dated 18.7.2003, as contained in Annexure-R1, copy whereof was also marked to the District Magistrate and Deputy Development Commissioner and District Welfare Officer, Samastipur.

6. Learned counsel for the petitioner in response to the pleadings of respondent No. 3 submitted with reference to his rejoinder that the claim made by the respondent No. 3 that petitioners who were selected for appointment on the post of Sewika and Sahayika by the Gram Sabha during the meeting held from 12 to 14.6.2003 are qualified to be appointed on those posts as they are qualified in terms of the instructions contained in letter No. 1129 dated 13.6.1998 and appreciating the same respondent No. 3 himself has appointed petitioner No. 5, Saroj Kumari and another Neelam Devi on the post of Sahayika vide appointment letter No. 633 dated 29.1.2004, Annexure- 10.

7. In view of the conflicting stand on facts being taken by the parties during the hearing of this case as would appear from their pleadings it is not possible to adjudicate as to whether the petitioners are qualified to be appointed on the post of Sewika and Sahayika, Paroria Gram Panchayat. This Court accordingly deems it expedient to direct the District Magistrate, Samastipur, to make necessary enquiry into the eligibility or otherwise of the petitioners for appointment or) the post of Sewika and Sahayika in Paroria Gram Panchayat after notice to the

Mukhiya, Paroria Gram Panchayat, P.S. Hassanpur, and the Child Development Project Officer, Hassanpur, respondent No. 2 and 3. The enquiry should be made with reference to. Welfare Department letter No. 1129 dated 13.6.1998. In the event it is found that petitioners are duly qualified to hold the post of Gram Sewika and Sahayika in the Paroria Gram Panchayat, then the District Magistrate, Samastipur, should direct the Mukhiya, respondent No. 3, to sign the proceedings of the Aam Sabha dated 12 to 14.6.2003, Annexure-1 series, and should also ensure issue of appointment letters to the petitioners. The enquiry in terms of this order should be completed within a period of one month from the date of receipt/production of a copy of this order. During the pendency of the writ application any appointment made on the post of Sevika and Sahayika in Paroria Gram Panchayat shall remain-stayed during the period of enquiry in terms of this order as under interim order dated 27.9.2004 passed in this case, this Court had observed that appointments made, in the meanwhile, shall be subject to the result of the case.

8. This disposes of this application. No cost.