

(2016) 05 PAT CK 0003

In the Patna High Court

Case No : Civil Writ Jurisdiction Case No. 6863 of 2013

Kumari Manju

APPELLANT

Vs

State of Bihar

RESPONDENT

Date of Decision : 03-05-2016

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2016) 2 BBCJ 300

Hon'ble Judges : Mr. Shivaji Pandey, J.

Bench : Single Bench

Advocate : M/s Amrit Abhijet and Sharad Kumar, Advocates, for the Petitioner;
M/s Pramod Mishra and Amresh, AC to SC 11, for the Respondents

Final Decision : Allowed

Judgement

Mr. Shivaji Pandey, J.(Oral)—Heard learned counsel for the petitioner and learned counsel for the State.

2. In this case, the petitioner is challenging the order dated 09.11.2012 passed by the Commissioner, Koshi Division, Saharsa in Anganbari Appeal Case No. 215 of 2012.

3. The matter relates to Anganwari Sevika with regard to Anganwari Centre No. 09, Gram Panchayat Mirjawa, Block Kishanpur, District-Supaul where the post of Anganwari Sevika and Sahayika were notified.

4. The petitioner applied for the post of Anganwari Sevika. The present petitioner was not appointed rather one Kalpana Jha wife of Binod Kumar Jha was appointed as Anganwari Sevika.

5. Being dissatisfied with the non-appointment of the petitioner, he approached the District Magistrate, Supaul, vide Case no. 26 of 2011 and the District Magistrate/Collector found that record of Aam Sabha is completely forged and fabricated and has not been done in a proper manner. At the same time the

mapping work has also not been done in a proper manner.

6. Against that order, Kalpana Jha filed an appeal before the Commissioner which was registered at Anganwari Appeal no. 215 of 2012.

7. The order sheet itself shows that the appeal was placed before the Commissioner on 20.06.2012. On 06-07/07/2012, the case was not taken up on that day, as that day was disclosed holiday. Again the case was fixed for 02.08.2012 and the case was also not taken on that day as the Presiding Officer was busy with some other work. On 24.08.2012, the appellant was present, but the case could not be taken up as the Presiding Officer was busy with other work. On 21.09.2012, the case was heard and the Presiding Officer gave direction for calling the LCR and issued the notice and fixed the case for 11.10.2012. On the next date, the present petitioner appeared, but the case was not heard. The order dated 11.10.2012 shows that, the case was fixed "for order" and the impugned order has been passed on 09.11.2012. The order sheet itself shows that the present petitioner was not given a proper opportunity of hearing to place his case, wrong procedure has been adopted by the Commissioner is obliged to give hearing to the petitioner only thereafter, he could have passed the order, one way or other.

8. In such view of the matter, this Court is of view that the Commissioner has followed the wrong procedure, did not give any hearing to the petitioner, accordingly, the order dated 9th November 2012 is quashed.

9. This Court is not giving any opinion on the merit of the case. The matter is remanded back to the Commissioner. It will be convenient for the parties, both sides will appear before the Commissioner on 1st June 2016 and the Commissioner will dispose of the matter within a period of three months from the day of first appearance of the parties.

10. Accordingly, this petition is allowed to that extent.