
(2014) 12 PAT CK 0020
In the Patna High Court
Case No : CWJC No. 4570 of 2013

Manju Kumari

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

Date of Decision : 17-12-2014

Acts Referred:

Citation : (2015) 3 PLJR 183

Hon'ble Judges : Birendra Prasad Verma, J

Bench : Single Bench

Advocate : Yogendra Mishra and Binod Kumar, Advocate for the Appellant;
Shankar Kumar Choudhary, Advocate for the Respondent;

Final Decision : Disposed off

Judgement

Birendra Prasad Verma, J.

1. Heard the parties. The petitioner is aggrieved by the order dated 27.1.2011 (Annexure-4) passed by the respondent District Collector, Samastipur, whereby the selection of the petitioner on the post of Anganwari Sevika of Anganwari Centre No. 128 in the district of Samastipur has been cancelled. She is also aggrieved by the appellate order dated 24.12.2012 (Annexure-5) passed by the respondent Commissioner, Darbhanga Division, Darbhanga, whereby the appeal preferred by the petitioner against the impugned original order dated 27.1.2011 (Annexure-4) has been rejected and the order passed by the respondent District Collector has been affirmed.

2. While assailing the impugned original order, as contained in Annexure-4, and the appellate order, as contained in Annexure-5, on merit, learned counsel appearing on behalf of the petitioner has submitted that contrary to the order/direction passed by the respondent District Collector and the respondent Commissioner, as contained in Annexures-4 and 5 respectively, the respondent No. 6 has been appointed on the post of Anganwari Sevika for the Anganwari Centre in question, though she was never selected in the Aam Sabha for that

post and no such order was issued either by the respondent District Collector as also by the respondent Commissioner. It is contended that the action of the respondent subordinate authority appears to be arbitrary and in collusion with the respondent No. 6 on certain extraneous consideration. It is next contended that, even if the selection of the petitioner on the post of Anganwari Sevika was found not to be in accordance with the guidelines issued by the State Government, then in that case, the respondent authorities could have started fresh selection process for appointment/selection on the post of Anganwari Sevika for the Anganwari Centre in question, but, in no case, the respondent No. 6 could have been allowed to function on the post of Anganwari Sevika.

3. Learned AC to AAG-14 appearing on behalf of the respondent Nos. 1 to 4 and learned counsel appearing on behalf of the respondent No. 6, though have opposed the prayer of the petitioner on merit, but despite repeated query by this Court they have not been able to show that the respondent No. 6 was ever selected in the Aam Sabha for the post of Anganwari Sevika. They have also not been able to show that any such direction was issued either by the respondent District Collector or by the respondent Commissioner by orders, as contained in Annexures-4 and 5 respectively. But they have conceded that the respondent No. 6 has been allowed to work and, in fact, she is working on that post after the orders, as contained in Annexures-4 and 5.

4. After having heard the parties, this Court finds that, though by orders, as contained in Annexures-4 and 5, the selection of the petitioner on the post of Anganwari Sevika for Anganwari Centre in question was set at naught for the reasons recorded in those two orders, but neither the respondent District Collector nor the respondent Commissioner had issued any direction for appointment of the respondent No. 6 on the post of Anganwari Sevika for the Anganwari Centre in question. Indisputably, the respondent No. 6 was not selected for the post of Anganwari Sevika in the Aam Sabha in question. In absence of any resolution by the Aam Sabha (General Body), the authorities of the respondent State could not have issued any selection letter in favour of the respondent No. 6 by taking help of the orders, as contained in Annexures-4 and 5. In the aforesaid undisputed factual matrix, this Court is of the considered opinion that a fresh selection process is required to be started by the competent authority for filling up the vacant post of Anganwari Sevika for the Anganwari Centre in question.

5. For the reasons recorded above, though the orders, as contained in Annexures-4 and 5, are not interfered with, but subsequent selection/appointment of the respondent No. 6 on the post of Anganwari Sevika for the Anganwari Centre in question is set aside and quashed. Now the competent authorities of the respondent State shall start a fresh selection process for filling up the vacant post of Anganwari Sevika for the Anganwari Centre in question, as per the existing guidelines issued by the State Government and all the eligible candidates shall be allowed to participate in the selection process. If the

petitioner as also respondent No. 6 are found otherwise to be eligible, then they shall also be allowed to participate in the selection process irrespective of any findings recorded in the orders, as contained in Annexures-4 and 5. The writ petition stands finally disposed of with the observations and directions made above.