
(2007) 07 PAT CK 0191
In the Patna High Court
Case No : MJC No. 325 of 2007

Sangeeta Devi and Others	Vs	APPELLANT
The State of Bihar and Others		RESPONDENT

Date of Decision : 09-07-2007

Acts Referred:

Citation : (2007) PLJR 157

Hon'ble Judges : J.N. Bhatt, C.J;S.K. Sinha, J

Bench : Division Bench

Advocate : Satya Vart Verma, for the Appellant; S.K. Singh, for the Respondent

Final Decision : Dismissed

Judgement

1. Upon consideration of the facts and circumstances and the grounds stated in this application, this application shall stand allowed and L.P.A. No. 535 of 2006 which stood dismissed for non-prosecution on 5.2.2007, shall stand restored to its original file. Upon a joint request of learned counsels for the parties, Letters Patent Appeal No. 535 of 2006 is taken up for final hearing at the admission stage.

2. This Letters Patent Appeal is directed against the judgment of the learned Single Judge rendered on 19.6.2006 in C.W.J.C. No. 2284 of 2006 Reported in Sangeeta Devi and Others Vs. The State of Bihar and Others, , whereby, the writ petition in which the challenge was against the direction and discontinuance of the original writ petitioners from the services of Anganbari Sevika and Sahayika in Pakhanaha Dumaria Gram Panchayat by letter dated 7.1.2006 issued under the signature of the District Welfare Officer, West Champaran, Bettiah, came to be dismissed.

We have heard learned counsels appearing for the parties. We have considered the impugned order of the learned Single Judge. We have, also, taken into account the principles of natural justice on the administrative law, as well as. the subsequent circular issued by the Government in this regard.

3. The main submission on behalf of the appellants has been that merely because the appellants-original writ petitioners happened to be the relatives of Mukhiya and Up-Mukhiya of a particular area their appointments were not prohibited in view of the Circular which came to be issued subsequently prohibiting such engagement of service. This submission deserves to be rejected on two counts:--

(1) Apart from the circular, it is a cardinal canon of administrative law that a person holding power, performing public duty, exercising statutory powers or using his discretion in a capacity of an office holder, obviously, and, certainly, could not appoint any relatives on a public employment or such service centres. This principle is very well celebrated since common law evolved, and

(2) secondly, as it is found from the impugned order, as well as, the facts of the present case that the appointment for the post of Anganbari Sevika and Sahayika of Gram Panchayat was inquired into by the Child Development Project Officer, Bairia, Bettiah, West Champaran, and in his inquiry report it was revealed that original petitioner No. 1--appellant No. 1 herein. Sangeeta Devi is the brother's wife of the Mukhiya of Gram Panchayat Pakhanaha Dumaria who had presided over the meeting of Aam Sabha, whereas, original petitioner No. 2--appellant No. 2 herein, Subhashini Devi has been the wife of Ganesh Prasad Kushwaha, Up-Mukhiya of the Gram Panchayat and original petitioner No. 3-- appellant No. 3 Urmila Devi is the wife of Kedar Prasad Kushawaha, a Class IV employee of the same Project.

4. The entire process, therefore, will stand vitiated on the ground of favouritism, nepotism, abuse and misuse of office.

5. Apart from that, there is, also, material on record to show that the selection of the appellants came to be made by the relatives in power in contravention of the guidelines contained in the letter dated 27.9.2005 issued by the Director, I.C.D.S. When the appointment itself is bad from the very beginning, contrary to law, or settled principles of administrative law it shall stand vitiated and, therefore, the appointment shall be void ab initio.

6. It is in these circumstances, we are left with no alternative but to dismiss this Letters Patent Appeal at the admission stage after hearing learned counsels for the parties. Accordingly, this Letters Patent Appeal shall stand dismissed.