

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.19143 of 2024

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Manni Kumari @ Munni Kumari @ Manni Devi, W/o Manmohan Kumar,
resident of Village and P.O.-Harbhanga, Panchayat-Deep East, P.S.-
Lakhanaur, Dist-Madhubani.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Social Welfare Department, Bihar, Patna.
2. The Directorate of Integrated Services of Child Development, Social Welfare Department, Bihar, Patna.
3. The Collector cum District Magistrate, Madhubani.
4. The District Programme Officer, Madhubani.
5. The Child Development Project Officer, Lakhanaur, Madhubani.
6. Sunita Kumari, W/o Arun Thakur, Resident of Village and P.O.-Harbhanga, Panchayat-Deep East, P.S.-Lakhanaur, Dist.-Madhubani.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Bimal Kumar Jha, Adv.
For the Respondent/s : Mr. Raghwanand, GA-11
Mr. Pratik Kumar, Adv.

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CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL JUDGMENT

Date : 07-01-2025

Heard the parties.

2. The petitioner is aggrieved with the order dated 27.08.2024 passed by the Court of Collector, Madhubani in Anganwari Appeal Case No. 106 of 2023, whereby the learned Collector has set aside the order dated 26.09.2023 passed by the District Programme Officer, Madhubani in Anganwari Miscellaneous Case No. 29 of 2022 filed by the petitioner against the selection of the respondent no.6 on the post of Anganwari Sevika for the Gram-Harbhanga, Panchayat-Deep



East, Ward no.6, Anganwari Centre no. 181.

3. The short facts which led to the filing of the present writ petition are that pursuant to an advertisement published on 13.06.2018, the petitioner along with others applied for the post of Anganwari Sevika. In terms of the guideline, the majority class of the said Centre was Extremely Backward Caste.

4. Learned counsel for the petitioner contended that on 10.10.2019, a public notice was circulated for holding the Aam Sabha; fixing the time at 11:00 AM on the same day itself at a public place, for selection of Anganwari Sevika/Sahaika. The petitioner duly acknowledged the notice, however, on account of the fact that the place of Aam Sabha was not mentioned in the notice, she could not be able to find out as to where the Aam Sabha was held. It is further contended that, in fact, no such Aam Sabha was held on 10.10.2019 and surreptitiously the private respondent no.6 had been selected on the post of Anganwari Sevika. In the meantime, on account of outbreak of COVID-19 Pandemic, the petitioner could not approach the concerned C.D.P.O. or the District Programme Officer. When the normalcy restored, in the year 2022, the petitioner immediately filed a complaint before the District Collector, Madhubani, which was referred to the District



Programme Officer, Madhubani for decision. The complaint of the petitioner was captioned as Anganwari Miscellaneous Case No. 29 of 2022; after hearing the parties and considering the materials available on record, the selection of the private respondent no.6 was found illegal and accordingly it was cancelled. Against the order of the District Programme Officer, Madhubani, the private respondent no.6 has preferred Appeal No. 106 of 2023 before the Collector, Madhubani. The petitioner entered her appearance and filed a detailed reply, however, the same was not duly considered and taking note of the fact that the complaint application of the petitioner was filed after three years from the date of the selection, the same has been held as time barred and, accordingly, allowed the appeal after setting aside the order of the District Programme Officer, vide order dated 27.08.2024.

5. Learned counsel for the petitioner further contended that the petitioner has obtained the copy of the proceedings of Aam Sabha under the Right to Information Act, 2005, which is also placed on record as Annexure-P/2. There is no reference to the notice dated 01.10.2019, which has referred in the impugned order, whereby allegedly information was given for holding the Aam Sabha on 10.10.2019. The impugned



order passed by the District Collector is wholly illegal and without application of mind, based upon erroneous facts, is the contention of learned counsel for the petitioner. It is lastly contended that the guidelines for selection of Anganwari Sevika/Anganwari Sahayika clearly stipulates that the Aam Sabha must be held on a prescribed time and date at a specified public place but it has not been done nor this issue has been dealt with by the Collector in his order, impugned herein.

6. On the other hand, learned counsel for the State drawing the attention of this Court to the order passed by the District Collector as contained in Annexure-P/1 to the writ petition has contended that while passing the impugned order, apart from the fact that each and every contentions of the petitioner have been taken note of; the Collector has categorically averred that, for the first time, C.D.P.O., Lakhanaur, vide Office Order No. 391 dated 01.10.2019 has fixed the date of Aam Sabha on 10.10.2019. It is the admitted fact that the petitioner had acknowledged the notice on 10.10.2019 but she failed to appear in the Aam Sabha. So far the contention of the petitioner that in case Aam Sabha could not be held on the date fixed by the Selection Committee, the said Aam Sabha should be held in the next week on the same date and



time in view of the Guidelines, 2016 as also the departmental letter no. 2222 dated 25.05.2018 did not find force as the Aam Sabha was held on 10.10.2019 and the selection had already been done on the same day itself, therefore, there is no question of holding a fresh Aam Sabha in the next week.

7. Learned counsel for the State further contended that the record and the order passed by the District Collector clearly demonstrate that on 10.10.2019 itself, the selection letter was issued in favour of the private respondent no.6, and for the first time, the amount of "पोषाहार" was transferred to the concerned Anganwari on 28.01.2020; but, the petitioner has approached the District Programme Officer in the year 2022. The District Collector has rightly observed that the life of the merit list is only for a year. Referring to the grounds mentioned in the impugned order, learned counsel for the State, thus contended that the present writ petition is devoid of any merit.

8. Having heard the learned counsel for the respective parties and after going through the impugned order passed by the District Collector in Anganwari Appeal Case No. 106 of 2023, this Court finds substance in the submission of learned counsel for the State.

9. The contention of the petitioner that his appeal has



been rejected on account of time barred has no substance, as the case of the petitioner has been duly considered on its merit(s) and one of the points for rejection is noted that the petitioner has not approached the concerned District Programme Officer within a reasonable time, though the life of the panel of selected candidate is fixed for one year. The grounds of rejection of the claim of the petitioner has been duly explained and dealt with in the impugned order. Neither irregularity has been found in the selection process nor the petitioner is able to show any defiance of the prescription of the guidelines relating to selection of Anganwari Sevika/Sahayika.

10. It would be noteworthy that the Hon'ble Supreme Court in the case of **State of Karnataka and Others v. Ameerbi and Others [(2007) 11 SCC 681]** while considering the case of the Anganbari Workers has ruled that the persons working as Anganbari Sevika do not hold civil post and their applications are not maintainable. The post of Anganbari Workers are not the statutory post and they are created under the scheme and, as such, they do not have any protection under Article 311 of the Constitution of the India.

11. In the case of **Parvati Devi @ Parvati Singh vs. the State of Bihar and Ors. [2024(1) BLJ 178]**, the learned co-



ordinate Bench of this Court, referring to the decision of the Hon'ble Supreme Court in **Ameerbi** (supra), also observed that since Anganwadi workers are not holders of civil post under the statute, their posts are not created, recruitment rules ordinarily applicable to the employees of the State are not applicable in their case, hence, the State is not required to comply with the constitutional scheme of equality, as enshrined under Articles 14 and 16 of the Constitution of India.

12. In the opinion of this Court, what is required is to provide a fair opportunity of hearing to the parties, adhering the principles of natural justice in terms of the guidelines regulating the selection process and service condition of the Anganbari Sevika/Sahaiyaka. While exercising the power of judicial review, this Court does not find any infirmity in the process adopted by the respondent authorities leading to any manifest injustice.

13. In view thereof, the present writ petition stands dismissed.

(Harish Kumar, J)

rohit/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	10-01-2025
Transmission Date	

