

Sangeeta Devi and ors. Vs. the State of Bihar and ors.

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Court : Patna

Decided On : Jun-19-2006

Judge : Ramesh Kumar Datta, J.

Appeal No. : C.W.J.C. No. 2284 of 2006

Appellant : Sangeeta Devi and ors.

Respondent : The State of Bihar and ors.

Advocate for Def. : S.C. to G.P. 9

Advocate for Pet/Ap. : S.K. Verma, Adv.

Disposition : Petition dismissed

Prior history : Ramesh Kumar Datta, J. 1. The three petitioners, who had been appointed as Anganbari Sevika and Sahaikas in Pakhanaha Dumaria Gram Panchayat, have come to this Court for quashing of the letter dated 7.1.2006 issued under the signature of the District welfare Officer west Champaran, Bettiah whereby a direction has been given to the Child Developments Project officer, Bairia, West Champaran (Respondent No. 6) to constitute an Aamsabha and to appoint Anganbari Sevika and Sahayikas in place of the

Judgement :

Ramesh Kumar Datta, J.

1. The three petitioners, who had been appointed as Anganbari Sevika and Sahaikas in Pakhanaha Dumaria Gram Panchayat, have come to this Court for quashing of the letter dated 7.1.2006 issued under the signature of the District welfare Officer west Champaran, Bettiah whereby a direction has been given to the Child Developments Project officer, Bairia, West Champaran (Respondent No. 6) to constitute an Aamsabha and to appoint Anganbari Sevika and Sahayikas in place of the petitioners on the ground that the petitioners are related to Mukhiya, Up-Mukhiya and Peon of a high school respectively.

2. Petitioner No. 1 was appointed as Anganbari Sevika and petitioner No. 2 and 3 were appointed as Anganbari Sahayikas in the aforesaid Grampanchayat on 23.12.2003, 22.12.2003 and 15.6.2004 respectively.

3. Learned Counsel for the petitioners submits that they had been appointed after following all the due processes at a time, when in terms of the guidelines in existence there is no bar to the appointment of relations of Mukhiya, Up-Mukhiya or any other persons. He further submits that all the due processes for the purpose of appointment had been followed and in the meeting of Aamsabha they had been selected. Learned Counsel assails the impugned order dated 7.1.2006 as contained in Annexure-11 merely on the ground that the order toad been passed on the basis of subsequent guidelines issued under Memo No. 2853 dated 27.9.05 under which the relations of Mukhiya, Up-Mukhiya and government servants are declared in eligible for selection as Anganbari Sevika/Sahayika. He contends that the guideline issued by the Executive Authorities could not be applied prospectively to the appointment made in the year 2003 - 2004 and on the basis of the said guidelines appointment of the petitioners cannot be cancelled.

4. A counter affidavit has been filed on behalf of respondent No. 2 to 6 in which it has been stated that complaints were received regarding the selection and appointment of Anganbari Sevika/Sahayikas of Gram Panchayat Pakhanaha Dumaria whereupon an enquiry was conducted by the Child Development Project Officer, Bairia, District - West Champaran. In the said enquiry report it was revealed that petitioner No. 1, Sangeeta Devi is the brother's wife of the Mukhiya of Gram Panchayat Pakhanaha Dumaria who had presided over the meeting of

Aam Sabha held on 3.12.03. It is further stated that petitioner No. 2, Subhashini Devi, is the wife of Ganesh Prasad Kushwaha, Up-Mukhiya of Gram Panchayat Pakhanaha Dumaria and she has been selected whereby petitioner No. 3, Urmila Devi, is the wife of Kedar Prasad Kushwaha, Class-IV Employee of Pakhanaha for project High School. On the basis of the enquiry report it was pointed out that the entire process of selection of the Anganbari Sevika and Sahayika was vitiated by the principle of nepotism and for the said reason directions were issued by the impugned order dated 7.1.2006 to hold a fresh process of appointment of Anganbari Sevika and Anganbari Sahayika in place of three petitioners.

5. It is true that the impugned order states that the selection is contrary to the guidelines contained in the letter dated 27.9.2005 of the Director, I.C.D.S. and the said guidelines could not have been relied upon to set aside the appointments of the petitioners but it is also to be seen that the said guidelines had been issued on the basis of the orders issued by the Apex Court with respect to the Scheme in the country which was made to make the process of such selection of Anganbari Sevika and Anganbari Sahayikas transparent.

6. However, even before the said guidelines the very selection of the three petitioners as Anganbari Sevika and Sahayikas appears to be vitiated by the Principle of bias and nepotism and the same could be rightly set aside.

7. In view of the aforesaid facts and circumstances I do not find any justification for interfering with the order contained in Annexure-11. The writ petition is accordingly dismissed but in the facts and circumstances of the case there shall be no order as to cost.