

Pratima Kumari Vs. Social Welfare Women and Child Development Dept

Pratima Kumari Vs. Social Welfare Women and Child Development Dept

SooperKanoon Citation : sooperkanoon.com/51326

Court : Jharkhand

Decided On : May-13-2015

Appellant : Pratima Kumari

Respondent : Social Welfare Women and Child Development Dept

Judgement :

IN THE HIGH COURT OF JHARKHAND AT RANCHI W.P.(S) No.1906 of 2013
Pratima Kumari Petitioner Versus 1. The State of Jharkhand 2. The Director,
Social Welfare Department, Ranchi 3. The Deputy Commissioner, Bokaro 4. The
Deputy Development Commissioner, Bokaro 5. The Child Development Project
Officer, Chandankiari, Bokaro 6. Bela Mahato W/o Sri Madhusudan Mahato
Respondents CORAM: HONBLE MR. JUSTICE APARESH KUMAR SINGH
For the Petitioner : M/s H.K.Mahato, Ahalya Mahato For the State : Mr.
R.R.Mishra, G.P.II Mr. Amit Kumar, J.C. to G.P.II For the Respondent. No.6 : Asit
Baran Mahata 05/13.05.2015 Heard counsel for the parties. Petitioner is
opposing the appointment of respondent no.6, Bela Mahto as Aangan Bari
Sevika of one Kochakulhi Aanganbari center of village Lanka alleging that she
does not belong to the Tola and the feeding area. More over the villagers have
also objected to her appointment. It is to be noted at the outset which has
emerged from the submission of the petitioner that she is daughter-in-law of one
Kalewar Mahato and the respondent no.6 is the daughter of the same Kalewar
Mahato. The selection of the respondent no.6 was done on the basis of the Aam
Sabha held in the village Lanka on 20.9.2010 to select Aanganbari Sevika for the

center Lanka-1 which had been rendered vacant on the death of the previous incumbent, who happened to be the mother of respondent no.

6. The Aam Sabha considered the candidature of about six candidates including the petitioner and the respondent no.6. Respondent no.6 w/o Madhusudan Mahato also like the petitioner belongs to the Backward Community with a qualification of Intermediate in Science having age of 21 years on the date of Aam Sabha. Petitioner, W/o Shasankar Mahato has qualification of Intermediate in Arts with 3rd division and her age is also 22 years on the date of Aam Sabha. Aam Sabha -2- proposed to recommend the selection of Respondent no.6 as she was having 219 marks out of 500 in her Intermediate Science examination while the petitioner was having 203 marks out of 500 in her Intermediate Arts examination. The center for which the selection process was initiated was Lanka-1 as aforesaid and the village Lanka as a whole has three centers i.e. Lanka-1, 2 and 3. It is borne out from Annexure-b to the counter affidavit that later on, on account of instances where beneficiaries of one center were either left out or certain beneficiaries obtained the benefit twice because of description of different centers as Lanka-1, 2 and 3, with the consent of the Public representatives of panchayat of 3 centers, Sevikas , Female Supervisor and Child Development Project Officer, Chandankiyari, Bokaro the distribution of the beneficiaries was done by letter no.14 dated 4.1.2012 against the three centers, Lanka-1,2 and 3 by allocating three Tolas i.e. Sharkulhi, Uperkulhi and Kalindi Tola in Lanka-1; whole Lanka Toladih basti in Lanka-2 and Kochakulhi, Kathalkulhi, Mundakulhi, Karmakar Tola under Lanka-3. The whole controversy however is being raked up by the petitioner with an allegation, based upon some support from her father-in-law as well, as would appear from different report annexed to the counter affidavit dated 14.2.2011, 26.5.2011 and 14.6.2011 etc and other documents that the respondent no.6 does not belong to the beneficiary village or feeding area of Lanka-1 center. According to learned counsel for the petitioner, even the Aam Sabha recommended the name of respondent no.6 on adhoc basis pending result of objection on the question of survey report of the beneficiaries. He further substantiated his contention by referring to the order of Deputy Development Commissioner, Bokaro dated 30.9.2010, Annexure-2 and appointment letter vide memo no. 432 dated 12.10.2010 issued from the Office of C.D.P.O, Chandankiyari, -3- Bokaro, Annexure-3 that appointment of respondent

no.6 was provisional subject to detection of any irregularity or lacuna in the beneficiary areas of the said center. Learned counsel for the petitioner submitted that on representation made by several villagers, the Circle Officer, Chandankiyari on 7.7.2012(Annexure-6) reported the matter to the Deputy Development Commissioner that Kuchkulhi had a different electoral list while Lankadih Tola has different electoral list and the centers are also separate. Perusal of the said report indicates that during the course of inquiry, it was found that family members of respondent no.6, Bela Mahato are included in the electoral list of Lanka Village and that the selected candidate Bela Mahato name finds place in the survey list of Kuchkulhi Tola center. This has enthused the petitioner to question the selection of respondent no.6 as Sevika of Lanka -1 center on the ground that she does not belong to the beneficiary area of said center. Learned counsel for the respondent-State and the private respondents have however opposed the challenge to the selection of Respondent no.6. Reliance has been placed on the averments made in the counter affidavit to submit that Bela Mahato is living within the jurisdiction of Aanganbari Center Lanka-1 and the Child Development Project Officer, Chandankiyari has also submitted report to the District Social Welfare Officer, Bokaro on 14.2.2011 which shows that the father-in-law of the petitioner, Kalewar Mahato is inclined for her daughter-in-law to be appointed as Sevika in place of her daughter, respondent no. 6. Certain allegations are also made against the father-in-law of the petitioner that he is using the Aanganbari center constructed on the land donated by him only for his personal purpose. Learned counsel for the respondent has submitted that Bela Mahato has been discharging her duties after her selection and -4- there are no infirmity in the selection process. Several reports of the C.D.P.O, Chandankiyari as well as other enclosures in support of their submission have been enclosed. Learned counsel for the petitioner in reply has pointed out to the provision of clause 7(ga) of the circular dated 3.6.2006 issued by the Social Welfare, Women and Child development Department which lays down guidelines in the matter of selection for the post of Sevika / Sahaika of the center. According to him the person who is to be selected as Sevika should be permanent resident of the village where the Aanganbari center is situated and if the village is divided into different Tolas then the candidate to be selected should belong to beneficiary population of the said Tola and not from any other Tola.

Therefore, the selection of the respondent no.6 is vitiated as she belonged to some other Tola. Having given sufficient hearing to the learned counsel for the parties to appreciate the controversy, it appears that the selection of respondent no.6 is being challenged on the ground which are not applicable when the process of her selection has been undertaken and her name was recommended. The reason being that, un-disputedly the village Lanka was divided into three centers , Lanka-1,,2 and 3 with no separate description of Tola. Respondent no.6 was selected amongst six candidates including the petitioner for the center Lanka-1 on being found having best qualification amongst participating candidates and that she belong to village Lanka. As has also been noticed herein above, both the petitioner and the respondent no.6 belong to same village Lanka and the the names of their family members are reflected in the electoral list of the said village. The division of the three centers on the basis of beneficiary population of one or the other Tola has been undertaken on 4.1.2012 with the consent of the representatives of the Panchayat, Sevikas, -5- the C.D.P.O, Chandankiyari and Female Supervisor. However the selection of respondent no.6 has been undertaken in 2010 September itself and was appointed also vide order dated 12.10.2010. Even though the beneficiary population of the Tola may have been earmarked for better delivery of the service to the population covered in the said Tola in January 2012 as described herein above as well, however, on that ground the selection made in September, 2010 on the basis of survey report existing at the relevant point of time would not vitiate the appointment of respondent no.6. It also seems that an unseemingly controversy has been fueled by a person to whom both petitioner and the private respondent no.6 are related. Be that as it may, on being tested on the principles of Judicial Review on the basis of relevant material facts, appointment of respondent no.6 does not appear to suffer from any infirmity so as to warrant interference by this Court. It is trite to observe that if the decision make process is not found to be vitiated, this Court is not required to exercise its discretion under extraordinary jurisdiction to interfere in the matter. The writ petition being devoid of merit is dismissed. (Aparesh Kumar Singh, J.) A. Mohanty