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Anita Devi Vs. The State of Jharkhand and Ors

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Court : Jharkhand

Decided On : Sep-03-2015

Appellant : Anita Devi

Respondent : The State of Jharkhand and Ors

Judgement :

IN THE HIGH COURT OF JHARKHAND AT RANCHI WP(S) No. 4089 of 2014 ---- Anita Devi ... Petitioner -Versus- 1.The State of Jharkhand 2.The Deputy Commissioner, Jamtara 3.The District Development Commissioner, Jamtara 4.The District Welfare Officer, Jamtara 5.The Block Development Officer, Narayanpur, Jamtara 6.The Child Development Programme Officer, Jamtara 7.Baby Devi ... ... Respondents ---- CORAM :HONBLE MR. JUSTICE APARESH KUMAR SINGH ---- For the Petitioner :M/s Ranjan Kumar Singh & K.K.Mishra For the Respondents :JC to GP III ---- 05- 03.09.2015 Heard learned counsel for the parties. The petitioner was selected earlier for the post of Sevika in an Aam Sabha held for the Centre Mirga Mandal Tola on 11.7.2011 but being the sole candidate that was objected by one Baby Devi, who had been selected in the previous Aam Sabha. There was a dispute relating to the beneficiary area of the centre. The matter was further inquired into on the directions of the deputy Commissioner and the Deputy Development Commissioner both as per orders dated 26.2.2013 and 19.1.2013 respectively. Both the higher officials were of the opinion, based upon an inquiry conducted by the District Social Welfare Officer that the beneficiary populations of the two Aam Sabha Centre in the village Mirga Mandal Tola and

Adiwasi Tola need to be redetermined and a fresh Aam Sabha be held. This exercise was held as would appear from the proceedings of the Aam Sabha held on 17.7.2013, minutes of which have been produced by the respondent no.4 pursuant to the previous order. The proceedings on 17.7.2013 were attended by the Block Development Officer, Narayanpur, Child Development Project Officer, Narayanpur, Female Supervisor, Mukhia, Members of the Panchayat Samiti , Gram Pradhan, Ward Members, Teachers and Auxiliary Nurse/ Midwife. Several 2. villagers participated in the said Aam Sabha where candidature of the petitioner and one Baby Devi were open for selection amongst the villagers comprising the Aam Sabha. Proceedings of Aam Sabha indicates that pursuant to the direction of the Deputy Commissioner, the BDO has redetermined the beneficiary area of Mirga Mandal Tola and found 50 houses with 318 residents. The centre was found to be populated by the backward class people. Both candidates belong to backward community. Both the candidates have the qualification of Intermediate but Anita Devi, the petitioner has got 430 marks out of 800 compared to Baby Devi, who has got 420 marks out of 800. The Aam Sabha accordingly selected the present petitioner and the proceedings were signed by all the official representatives named herein-above apart from the villagers, who are shown to have attended the Aam Sabha. In between the aforesaid facts, it is also required to be taken note of that the petitioner had approached this Court in WP(S) No.6431/2012 seeking a direction upon the respondents to appoint her as Sevika of the Anganbari Centre Mirga Mandal Tola (Laghu), P.S. Narayanpur, District Jamtara as per selection conducted on 11.7.2011 as appointment letter was not being issued despite representations. The writ petition was disposed of with a simplicitor direction to the Deputy Commissioner, Jamtara to take a decision on her representation within a period of two months in accordance with law vide judgment dated 3.1.2013, Annexure 5. The petitioner pursued a contempt being Contempt Case (Civil) No.309/2013. During pendency of which, in compliance of the court's order, it was informed by the opposite parties that appointment letter has been issued to the petitioner. The proceedings were dropped accordingly and the petition was disposed of by order dated 20.9.2013. The petitioner got provisional selection letter dated 17.7.2013, Annexure-7, which 3. also refers to her selection conducted in the Aam Sabha for Mirga Mandal Tola (Laghu) on

17.7.2013 signed by the CDPO Narayanpur. After the contempt was disposed of and the selection letter was issued, the Deputy Development Commissioner, Jamtara by the impugned order dated 28.6.2014 found a new reason to cancel her selection and ordered for fresh Aam Sabha for appointment of Sevika for the said centre. As it appears from the reasoned order dated 28.6.2014, the Deputy Development Commissioner, Jamtara has taken note of the previous directions passed by the erstwhile Deputy Development Commissioner dated 19.1.2013 and that of Deputy Commissioner dated 26.2.2013, as noted herein-above, directing redetermination of the beneficiary population and holding of a fresh Aam Sabha for the Mirga Mandal Tola. When these directions were carried out by the Block Development Officer before holding the fresh Aam Sabha on 17.7.2013 leading to the selection of the petitioner, the Deputy Development Commissioner cancelled the same on the ground that only the candidature of the petitioner and one Baby Devi were considered and others who might have become eligible were not considered. The Deputy Development Commissioner cannot be said to be oblivious of the fact that in a contempt proceeding in compliance of the direction passed in the writ petition the opposite parties, authorities of the District of Jamtara informed the Court that this petitioner has been duly selected and selection letter has also been issued to her. The whole exercise to cancel her selection was done after such a stand taken in the contempt petition by the respondent-authorities but without taking any leave of the Court to undo the said selection process. Examining on merit also the reasoned order does not justify the test of legal scrutiny as after all the directions were carried out in the matter of holding a fresh Aam 4. Sabha on 17.7.2013, the Deputy Development Commissioner, Jamtara has no reason to cancel the same on a totally new ground. A wholly unnecessary and unjustified exercise causing not only loss of employment to the petitioner but also inconvenience to the Court, has occasioned on account of such indiscreet exercise of power by the Deputy Development Commissioner, Jamtara. The impugned order has to be set aside in view of the discussions and the reasons indicated herein-above. Accordingly, it is quashed. Let the matter be brought to the notice of the Principal Secretary, Department of Personnel, Administrative Reforms and Rajbhasha, Government of Jharkhand for considering the necessity of initiation of any proceeding in accordance with law against the then Deputy

Development Commissioner, Jamtara, the author of the reasoned order. This writ petition is allowed in the aforesaid manner. I.A.No.4241/2015 also stands disposed of. (Aparesh Kumar Singh, J.

) Pandey

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