

In The Court of Commissioner, Saran Division, Chapra
Aanganbari Appeal No. 145/2011

Shikha Devi

Vrs.

D.M. Gopalganj and others

ORDER

The instant appeal is directed against the impugned order passed by District Magistrate, Gopalganj in Misc. case No. 169/08 on 06.08.2011 (Ramawati Devi Vrs Child Development Project Officer, Barauli and others).

The brief facts of the case are that Smt. Shikha Devi w/o Manoj Kumar Singh, R/o Vill-Dangsi, P.S-Sidhwaliya, Gram Panchayat-Larauli, Dist-Gopalganj was selected as Aanganbari Sevika for centre No. 198 in the meeting of Aam Sabha held on 23.03.2007 although her name figured at serial No. 4 of the merit list. The further case is that the application of one Ramawati Devi was rejected on the ground of late receipt of the same. Feeling aggrieved by the said action, Ramawati Devi approached the Hon'ble High Court vide CWJC No. 13603/2007 challenging the selection of the present appellant and the said case was disposed of on 11.08.2008 on the prayer that the same may be disposed of with a direction to D.M. Gopalganj without going into the merit of the case. This led to initiation of a Misc. case No. 169/2008 by the D.M. Gopalganj and who by his order dated 06.08.2011 cancelled the appointment of the present appellant and also directed the concerned CDPO to select Ramawati Devi.

On being aggrieved by and dissatisfied with the aforesaid order of D.M. Gopalganj leading to termination of her selection, the appellant has preferred this appeal petition.

Heard the parties.

The learned counsel appearing on behalf of the appellant submitted that the impugned order of D.M. Gopalganj is not correct as he completely relied upon the allegation raised by the private respondent, Ramawati Devi without appreciating the facts placed by this appellant relating to rejection of the application of Ramawati Devi. He further submitted that centre No. 198 although, meant for the Backward class and only four application were received till the last date and as the other three applicants were from outside the benefited area of centre No. 198, this appellant was selected by the Aam Sabha held on 23.07.2007. The learned counsel further argued that the Ramawati Devi had submitted her application after the expiry of the last date as such her name was not considered. He further argued that the claim of the Ramawati Devi was that the present appellant is a relative of Mukhia is not totally correct in view of the fact that she has no concern with the Mukhia from whom they have partitioned and no question of favouritism arise at all. He further contended that the D.M. has failed to appreciate that the appellant had



fulfilled all the criteria of the selection so she can not be deprived of her selection by cancelling her appointment merely on the allegations of one Ramwati Devi. The learned counsel lastly prayed that the impugned order of D.M. be set aside.

The learned Govt. Pleader appearing behalf of D.M. Gopalganj, submitted that the impugned order is just and proper, hence the same may be upheld.

Considering the facts and circumstance of the case, material on records and on going through the impugned order, it appears that initially there were only four applicants applied for the post of Aanganbari Sevika for centre No. 198, this appellants name figured at serial No. 4 in the merit list. But as the other three candidates were not the resident of the Poshak Kshetra, their candidature was rejected by the Aam Sabba and this appellant was selected. On the other hand, the private respondent No. 8, Ramawati Devi claims that although she had applied for the post, but she was not given any receipt relating to submission of her application by the Panchayat secretary and even her name was not included in the merit list. This contention of Ramawati Devi is not tenable in view of the fact that even the Panchayat secretary who testified before D.M. that the application of Ramawati Devi was not received before the stipulated time hence her application was shown to be lately received. The other claim of the Ramawati Devi that the present appellant is a close relative of the local mukhia is also not acceptable in view of lack of any sufficient evidence to prove that the family of the present appellant does not live separately from mukhia after partition as being claimed by the appellant.

Thus from above discussion, it is quite obvious that the the D.M. has passed the impugned order by placing utmost reliance upon the allegation raised by the private respondent Ramawati Devi without considering the factual matrix of the case. In the face of allegations, it was essential that D.M. should have ordered for an inquiry into the matter to be made by any senior officer so as to arrive at the correct findings of facts before passing the impugned order. Even the reasons recorded by the D.M. seems to be superficial in nature as no evidence has been discussed to corroborate his said findings. Once a candidate is selected by the Aam Sabba, as she qualifies to be selected then how can her service be terminated merely on the alleged charges of illegality without making any fact finding enquiry?

For the aforesaid reasons, the impugned order of D.M. Gopalgnaj dt. 06.08.2011 in Misc. case No. 169/08 seems to have been passed on conjecture and surmises, is not sustainable, hence the same is set aside and this appeal is allowed accordingly.

Dictated and Corrected by me.

Commissioner,
Saran Division, Chapra

12/4/2014

Commissioner
Saran Division, Chapra
12/4/2014