

In The Court of Commissioner, Saran Division, Chapra
Anganbari Appeal No. 107/2013
Chinta Devi
Vrs.
Mala Devi & Ors.

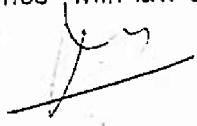
ORDER

The instant appeal petition has been filed pursuant to the direction of Hon'ble High Court as in order dated 01.03.2013 passed in CWJC No. 3923/13.

The brief facts of the case are that Chinta Devi W/o Brij Kishore Manjhi R/o Village- Alapur P.S. - Manjharh Dist- Gopalganj was & selected as Anganbari Sevika for Alapur Centre No. 38 in the Aam Sabha held on 12.07.2004 and accordingly she started to work there. Thereafter on the complaint of one Mala Devi, of the same village filed a writ bearing No. CWJC No. 15886/05 challenging therein the selection of the present appellant and the said writ was disposed on 24.09.2007 with a direction to the D.M. Gopalganj to dispose of the matter in accordance with the prevailing guidelines. Then the D.M. Gopalganj constituted an inquiry committee to enquire in to the matter relating to the selection of the present appellant and the said committee submitted its report. Thereafter, the D.M. Gopalganj initiated a Misc. Case 5/11 and on hearing the parties passed the order on 24.06.2011 whereby the appellants. Selection was cancelled. This led to filing of two writ petitions CWJC No. 16073/2011 and CWJC No. 23164/11 by the present appellant and respondent respectfully and these two writ petitions were remanded to the D.M. Gopalganj by settling aside the order dated 24.06.2011 of D.M., Gopalganj and also directed to hear the parties afresh on all aspects and pass a fresh reasoned and speaking order in accordance with law. Then the D.M. Gopalganj again called the Previous court record of the case and after hearing the parties, passed the order on 12.10.2012 wherein he held that the selection of Chinta Devi as Anganbari Sevika was against the provision of the law. This led to filing of another writ petition before the Hon'ble High Court by the present appellant vide CWJC No. 323/13 which was allowed to be withdrawn on 01.03.2013 with a direction to file an appeal before the Divisional Commissioner.

Heard the Parties

The learned counsel of the appellant submitted that the impugned order dated 12.10.2012 of D.M. Gopalganj is not in accordance with law. He further submitted that the D.M. wrongly passed the order dated 24.06.2011 whereby the appellants appointment as Anganbari Sevika was cancelled. He further argued that the appellant belongs to scheduled caste category and her selection as Anganbari Sevika was made unanimously on the basis of majority of the population belonging to that category in the said area and in the meeting chaired by BDO Manjharh. Although the present respondent filed a complaint and the inquiry committee constituted by D.M. Gopalganj found that the selection of the appellant was done in accordance with law and complainant does



not even included in the BPL list . The learned counsel further submitted that although it is mentioned in the impugned order that the selection of the appellant is not in accordance with the provision of the guidelines but the fact is that she was selected as per the provisions of the guidelines and even the enquiring committee consisting of SDO, Gopalganj, DWO, gopalganj and CDPO, Gopalganj submitted a report stating therein that the selection of appellant was in accordance with law. The learned counsel lastly prayed that the impugned order of D.M. Gopalganj be set aside and the appellant be re-instated as Anganbari Sevika.

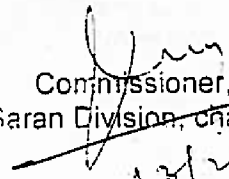
No one appears on behalf of the private respondent despite notice has been sent to her through D.M. Gopalganj.

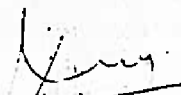
The learned G.P. appearing on behalf of D.M. Gopalganj simply supported the impugned order.

Considering the facts and circumstances of the case, material available on records and submissions made by the learned counsel for the appellant, it is seen that the appellant was engaged as Anganbari Sevika in the year 2004 and since then she worked un interruptedly till the year 2011 till her service was terminated . It is also seen that both appellant and the private respondent Mala Devi repeatedly approached the Hon'ble High Court by filing writ Petitions for redressal of their grievances. The Hon'ble High Court vide order dated 15.05.2012 set aside the earlier order of termination passed by D.M. Gopalganj and the D.M. Gopalganj was also directed to consider the report submitted by the it enquiry committee constituted by him in the light of the direction of Hon'ble High Court. The D.M. for the second time while passing the impugned order completely disagreed from the said enquiry report. Although , he cited the reasons for that but the same has not been considered in its totally. The appellant belongs to SC category and was also in the BPL List and had full filled all the norms for selection but the respondent was not included in the BPL List thereby her name was not considered for selection although she has more marks than the present appellant. The learned collector failed to consider this important point while passing the order on both occasions; earlier on 24.06.2011 and later on 12.10.2012 again. The order dated 24.06.2011 has already been set aside by Hon'ble High Court vide order dated 15.05.2012 in view of apparent reasons. The order dated 12.10.2012 which is impugned in the preset appeal also lacks the sufficient reasons for arriving at the final decisions.

For the reason, aforesaid , the impugned order of D.M. Gopalganj dated 12.10.2012 is set aside and in the result this appeal is allowed.

Dictated & Corrected by me.


Commissioner,
Saran Division, Chapra
13/11/14


Commissioner,
Saran Division, Chapra