

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1414 of 2018

In

Civil Writ Jurisdiction Case No.16478 of 2013

Bindu Kumari Daughter of Sri Shiv Nandan Sah, wief of Birendra Kumar Sah, Resident of Mohalla- Aryan Shopping, Gerabadi Road, Mirchaibari, District- Katihar

... .. Appellant/s

Versus

1. The State of Bihar through the Principal Secretary, Social Welfare Department, Government of Bihar.
2. The Personal Secretary, Social Welfare Department, Government of Bihar, Patna
3. The Divisional commissioner, Purnea Division, Purnea
4. The Director , Integrated Child Development Services Directorate, Bihar, Patna.
5. The Seletion Committee, Lady Supervisor Selection Committee, katihar through its Chairman, The Coll
6. The Collector, Katihar.

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Rajesh Mohan, Advocate
For the Respondent/s : Mr. Gyan Prakash Ojha, GA-7

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE RAJIV ROY

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 03-10-2023

The appeal is filed against an order in a review, which rejected the same finding the scope of review to be very limited and the invocation of such review jurisdiction possible only on the ground of an error apparent/evident from the face of the record.



2. We find absolutely no reason to interfere with the said order in appeal.

3. However, the learned counsel also pointed out the order passed in the writ petition, which though not challenged; we looked at for completeness. On 02.04.2018, a writ petition was filed by the petitioner against the rejection of her candidature to the post to Lady Supervisor, which was dismissed. The rejection of her candidature was on account of her not having produced the Non-Creamy Layer Certificate, which she was obliged to produce along with application.

4. The learned Single Judge found that though it was not produced along with application, she was called for counselling on 14.05.2012, on which date also she had not produced it. The petitioner's reliance on the guidelines, which speak of an opportunity to submit the required certificate, having not been granted to her was also rejected on the ground that the advertisement clearly spelt out the requirement to produce the certificates along with application.

5. The advertisement was made as per



Annexure-1, produced in the writ petition, for appointment on contractual basis to the post of Lady Supervisor (*Mahila Parveyashika*) in Katihar district. Even according to the petitioner, the advertisement required that the application should contain the self-attested photograph, the Extremely Backward Class certificate along with the certificate of not coming under creamy layer. Admittedly, the petitioner did not produce the certificate along with the application. The contention of the petitioner that as per the guidelines she should have been given an opportunity, is misplaced insofar as the petitioner having not produced the certificate anytime thereafter, not even on the date of counselling. Her candidature was not rejected at its inception and despite her failure to produce the certificate, she was called for the counselling. This was sufficient compliance of the guidelines.

6. In the writ petition also the petitioner had a contention that if her application was defective, she should have been informed. The said contention also is misplaced, since, the advertisement clearly required the applicants to produce the certificates and the self-attested photograph



along with the application itself. If any of the enclosures required are not produced, the application could be rejected *in limine*, which was not done.

7. In the present case, the application was not rejected and the petitioner was called for counselling, on which date also she did not produce the certificate.

8. It is the contention of the petitioner in the writ petition itself that she produced the certificate before the respondent. However, no such certificate was produced along with the writ petition. Later by a reply to the counter affidavit, a certificate dated 14.05.2012, was produced as Annexure-8. Obviously, the certificate dated 14.05.2012, could not have been produced along with the application, since, before the last date for submitting the application the certificate was not even issued.

9. In this context we also have to notice that the certificate was issued only on 14.05.2012, on which date the counselling was also carried out. Hence, the petitioner's contention that the certificate was produced at the time of counselling also cannot be believed.

10. We find absolutely no reason to entertain the



appeal both against the order of review or on merits against the original judgment of the learned Single Judge.

11. The appeal stands dismissed leaving the parties to suffer their respective costs.

(K. Vinod Chandran, CJ)

(Rajiv Roy, J)

aditya/-

AFR/NAFR	
CAV DATE	
Uploading Date	06.10.2023.
Transmission Date	

