

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.1424 of 2014

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1. Khusboo Kumari W/O Chandra Kishor Yadav Resident Of Village- Sripur
Sukhasan, P.S.- Kisanpur, District- Supaul

.... Petitioner/s

Versus

1. The State Of Bihar
2. The Principal Secretary, Social Welfare Department, Government Of Bihar, Patna
3. The Director, Social Welfare Department, Govt. Of Bihar, Patna
4. The Commissioner, Koshi Division, Saharsa
5. The District Magistrate-Cum-Collector, District- Supaul
6. The District Development Commissioner, Supaul, District- Supaul
7. The District Programme Officer, Supaul Distt.- Supaul
8. The Chief Development Project Officer, Kisanpur Block, District- Supaul
9. The Mukhiya, Gram Panchayat Raj Sripur Sukhasan Under Kisanpur Block, District- Supaul
10. The Panchayat Secretary, Gram Panchayat Raj, Sripur Sukhasan, District- Supaul
11. Lalita Kumari W/O Indra Bhushan Yadav Resident Of Village- Sripur Sukhasan, P.S.- Kisanpur, District- Supaul

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. BIDHAN CHANDRA JHA

For the Respondent/s : Mr. AMAR NATH DEO

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CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI

ORAL JUDGMENT

Date: 19-02-2015

19.02.2015

Heard learned counsel for the petitioner and
the counsel for the private-respondent no. 11.

This Court is amazed in the manner and
procedure, which has been adopted by the Divisional
Commissioner, Koshi Division to override the finding
given by the Collector with regard to the status of the
private-respondent, contained in Annexure-4. Who
examined the witnesses, what was the veracity of those

witnesses is not emerging from the order. However, counsel for the private-respondent submits that the evidence was taken before a Supervisor.

Another significant aspect is that after passing of the order of the Collector, contained in Annexure-4, dated 09.06.2012, certain evidence was sought to be created in favour of the private-respondent. Such developments obviously cannot be taken into consideration, which has the effect of altering the previous status of the parties.

The Court, therefore, is convinced that the Divisional Commissioner has not conducted the proceeding of appeal in a fair and proper manner and it seems he was determined to reach a conclusion in favour of the private-respondent by whatever twist and turn of facts and evidence.

Such order, therefore, contained in Annexure-6, dated 06.12.2013, becomes vulnerable and is required to be quashed and is quashed.

Writ application is allowed.

Before parting, it is made clear that quashing of Annexure-6 will not come in the way of the private-respondent, filing a fresh appeal before the new designated appellate forum, which is the Deputy

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Director, Welfare with regard to the correctness or otherwise of Annexure-4. The said authority will not be influenced by any findings or materials, which were taken into consideration by the Divisional Commissioner in the adjudication, contained in Annexure-6.

(Ajay Kumar Tripathi, J.)

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