

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9889 of 2015

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Priyanka Devi Wife of Rajiv Kumar, resident of village - Gonawa, Ward
No. 8, P.O. - Sakurabad, P.S. - Parasbigha, District - Jehanabad.

.... Petitioner/s

Versus

1. The State of Bihar.
2. The Director, Integrated Child Development Scheme (I.C.D.S.)
Directorate, Social Welfare Department, Govt. of Bihar, Patna.
3. The Deputy Director, Welfare, Magadh Division, Gaya.
4. The District Magistrate, Jehanabad.
5. The District Programme Officer, Jehanabad.
6. The Child Development Project Officer, Jehanabad.
7. Nilam Kumari, Wife of Akhilesh Sharma, resident of village Gonawa,
Ward No. 8, P.O. - Sakurabad, P.S. - Parasbighas, District - Jehanabad.
8. Kusum Kumari, Wife of Ashok Singh, Resident of Village - Gonawa,
Ward No. 8, P.O. - Sakurabad, P.S. - Parass Bighas, District - Jehanabad.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Dronacharya, Adv
For the Respondent/s : Mr. AAG6- Anjani Kumar

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CORAM: HONOURABLE MR. JUSTICE MIHIR KUMAR JHA
ORAL JUDGMENT

4 05-08-2015 This case has been brought under the heading ‘to

be mentioned’ at the instance of learned counsel for the

petitioner.

Mr. Dronacharya, learned counsel for the

petitioner submits that the order directing Divisional

Commissioner to dispose of the appeal of the petitioner

will not be strictly maintainable in view of the

clarification issued by the State Government from the

Social Welfare Department in its circular date 17.05.2013.

In the considered opinion of this Court, the order dated 14.07.2015, directing the Commissioner to hear the appeal is correct under the facts and circumstances of the case. Let it be noted that the original order was passed by the Collector of the district on 22.11.2011. As against that order Kusum Kumari and others had filed an appeal in the year 2011 being Appeal Case No. 187 of 2011, which was heard along with another appeal filed by Neelam Kumari being Appeal Case No. 84 of 2014, in the year 2011, the power vested for hearing the appeal was filed with the Commissioner of the Division, inasmuch as, the clarification as noted above challenging the authorities either as with regard to District Programme Officer being the original authority or the Deputy Director, Welfare, posted in the office of Welfare Department or officer in the rank of Additional Collector working in the office of Divisional

Commissioner. Thus, neither the Additional Collector nor the Deputy Director, Welfare had the power to hear the appeal against the order of Collector dated 22.11.2011, and as such it was quite easy for this court to quash the impugned order but then having regard to the fact that the order of the Collector has to be gone into and that can be done by the Divisional Commissioner, this Court had directed the Commissioner of Division to dispose of the pending appeal of the petitioner.

In that view of the matter, there would be no need to modify the earlier order dated 14.07.2015.

(Mihir Kumar Jha, J)

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