

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.7839 of 2013

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1. Anita Kumari W/O Shyamsundar Prasad, Anganbari Sevika R/O Village-
Kharauna, P.S- Bodh Gaya, District- Gaya.

.... Petitioner/s

Versus

1. The State Of Bihar Through The Commissioner, Magadh Division, Gaya.
2. The Commissioner, Magadh Range, Magadh Division, Gaya.
3. The District Magistrate, Gaya.
4. The District Programme Officer, Gaya,.
5. The Child Development Project Officer, Gaya.
6. Baby Kumari W/O Binod Pawan R/O Village- Kharauna, P.S- Bodh Gaya,
District- Gaya.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. S. M. Shabbir Alam

For the Respondent/s : Mr. Manish Kumar No. 3, A. C. to S.C. 6

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 19-07-2016

Heard learned counsel for the petitioner and learned
counsel for the State.

2. The matter relates to the appointment of Angan
Bari Sevika. The petitioner being member of Backward class had
applied for the post of Angan Bari Sevika but the Collector and the
C.D.P.O. considering that the majority population of the area
concerned is of Scheduled Caste, Baby Kumari, respondent no. 6 had
been appointed as Angan Bari Sevika.

3. The petitioner filed an appeal before the Divisional
Commissioner, Magadh Division , Gaya vide Angan Bari Appeal No.



47 of 2011 but the appeal has been dismissed by the Divisional Commissioner, Gaya by order dated 28.07.2011 on the ground that the memo of appeal was bereft of the order of the District Magistrate and the Divisional Commissioner cannot sit on judgment over CDPO's order said to be passed in pursuance of the D.M.'s order.

4. This Court by order dated 09.05.2016 has repeatedly directed the State to produce the order of the District Magistrate, Gaya dated 19.08.2010 as the petitioner has claimed that no such order is in existence inasmuch as she has filed an application under the Right to Information Act to supply the order of the District Magistrate but it turned futile. This Court again adjourned the case on 21.06.2016 and 29.06.2016. The State has filed a supplementary counter affidavit but the formal order passed by the District Magistrate dated 19.08.2010 has not been brought on record. What has been brought on record is the notings of the file maintained in the office of the Collector which cannot be said to be a formal order passed by the Collector which could have been challenged before the Divisional Commissioner in appeal.

5. In such view of the matter, it is unfortunate that the Collector was required to pass an order but no such formal order has been passed. What has been placed is mere a part of notings of file which cannot be treated to be an order of the Collector. The

Collector while exercising its quasi judicial function is required to examine facts and law involved in the case and pass a speaking order in proper manner.

6. In such circumstance, this Court has no option but to relegate the matter to the District Magistrate, Gaya, who is directed to examine the case of the petitioner and pass a reasoned order within a period of three months from the date of receipt/production of a copy of this order but after giving proper opportunity of hearing to both parties.

7. This writ application stands disposed of with the observation/direction aforesaid.

(Shivaji Pandey, J)

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