

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.3245 of 2015

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Kumari Sangita Wife of Sri Ratnesh Kumar, resident of Village- Bardiha Turki,
Ward No. 3, P.O.- Bardiha Turki, P.S.- Patepur, District- Vaishali

.... Petitioner/s

Versus

1. The State of Bihar
2. The Principal Secretary, Social Welfare Department, Bihar, Patna
3. The Director, I.C.D.S., Social Welfare Department, Bihar, Patna
4. The Deputy Director, Welfare, Tirhut Division, Muzaffarpur
5. The District Magistrate, Vaishali at Hajipur
6. The District Program Officer, Vaishali at Hajipur
7. The Child Development Project Officer, Patepur Block, District- Vaishali
8. Shanti Kumari Devi, wife of Sri Ram Nandan Rai, resident of Village- Bardiha,
Ward No. 4, P.O.- Bardiha Turki, P.S.- Patepur, District- Vaishali

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Arun Kumar, Advocate
Mr. Hussaiddin Azad, Advocate
Mr. Sanjay Kumar Sharma, Advocate

For the State : Mr. Ruchikar Jha, AC to SC 8
For the Respondent No. 8 : Mr. Shurendra Pd. Singh, Advocate
Mr. Naresh Nandan, Advocate

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CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD

ORAL JUDGMENT

Date: 06-08-2018

Heard learned counsel for the petitioner and the
respondent State as well as the private respondent no. 8.

2. Issue emerging from the guidelines of the year, 2011
which is clear and undisputed is that where the selection of Sevika
(Respondent no. 8) is cancelled on account of irregularities conducted
during course of inspection, the Appellate Authority under the
guidelines is the District Magistrate and not the Deputy Director,



Welfare who in the instant case has passed the order dated 18.11.2014.

3. The petitioner is aggrieved by the said order since as a result of the same, which is issued by the incompetent authority and without jurisdiction, the petitioner has been removed from her selection as Anganbari Sevika at Centre No. 144 of Patepur, District Vaishali.

4. Since Clause 10.5 and 10.6 of the 2011 guidelines specifically provides that the District Magistrate is the competent authority to examine the issues regarding cancellation of selection on the basis of irregularity, the order dated 18.11.2014 issued by the Deputy Director, Welfare is hereby quashed. The respondent no. 8 may approach the competent authority i.e., the District Magistrate by filing an appeal against the order dated 02.12.2011 issued by the District Programme Officer. If such an appeal is filed, the District Magistrate may consider the same in accordance with law after hearing the parties concerned.

5. Since issue has been admittedly decided by the wrong Forum, the issue of delay may not be raised in respect of the claim raised by the respondent no. 8. The District Magistrate would be obliged to consider the appeal on its own merits and take a final decision in accordance with law.



6. The writ petition is allowed to the extent indicated
hereinabove.

(Madhuresh Prasad, J)

Prakash/-

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	

