

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.18612 of 2014**

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Sarswati Devi Wife of Ranjeet Choudhary resident of Village - Mankosi, P.S.  
- Bodh Gaya, District - Gaya.

... .. Petitioner/s

Versus

1. The State of Bihar through the Secretary Department of Social Welfare, Bihar, Patna.
2. The Director, I.C.D.S. Bihar, Patna.
3. The Deputy Director, Department of Social Welfare Magadh Division, Gaya.
4. The Commissioner, Magadh Pramandal, Gaya.
5. The District Magistrate, Gaya.
6. The Child Development Project Officer, Bodh Gaya, District - Gaya.
7. The Mukhiya Gram Panchayat Moratal, P.S. - Bodh Gaya, District - Gaya.
8. The Panchayat Secretary, Gram Panchayat, Moratal, Bodh Gaya, District - Gaya.
9. Rita Kumari wife of Santosh Paswan resident of Village - Mankosi, P.S. - Bodh Gaya, District - Gaya.

... .. Respondent/s

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**Appearance :**

For the Petitioner/s : Mr. Devendra Prasad Singh, Adv.  
For the Respondent/s : Mr. Manoj Kumar Yadav, AC to GA10

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**CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY**  
**ORAL JUDGMENT**

**Date : 19-11-2018**

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

Without going to the merit of the case, it can be disposed of on the short point on the issue that the order in appeal has been passed by the Deputy Director, Department of Social Welfare, Magadh Division, Gaya in Appeal No. 130 of 2012.

The present matter relates to the Anganbari Sevika and, at the relevant time, the Commissioner was empowered under the scheme to hear and decide the appeal. The petitioner, being aggrieved by the letter no. 214 dated 28.5.2012, filed appeal before



the Commissioner, Magadh Division, Gaya in Appeal No. 130 of 2012 who, instead of hearing and deciding the same, transmitted it to the Deputy Director, Department of Social Welfare, Magadh Division, Gaya to hear and decide the appeal.

When the provision has authorized the Commissioner to decide the appeal and, if there is no such power of delegation or empowering the Commissioner to transmit the appeal and get it decided by an officer who has not been empowered to hear and decide, any decision taken by such an officer is nothing but, a void order in the eye of law. When an authority has been empowered to hear, it is he who has to decide the matter on way or the other and he cannot abdicate his power and delegate to another officer and get the appeal decided.

In that view of the matter, the order dated 13.08.2014 passed by the Deputy Director, Department of Social Welfare, Magadh Division, Gaya is quashed and the matter is remanded back to the Commissioner, Magadh Division, Gaya who will decide the appeal and pass an order in accordance with law.

This Court is not giving any opinion on the merit of the case. The appeal should be decided by the Commissioner, Magadh Division, Gaya within a period of four months from the date of receipt/production of a copy of this order.



Accordingly, this writ application stands allowed to the extent indicated above.

**(Shivaji Pandey, J)**

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