

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No 13658 of 2014**

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Smt Ramawti Devi @ Ramawti Devi, W/o Manoj Kumar Sharma, R/o Village Dangsi Paschim tola, Lauli, Gram Panchayat, ward No. 3, P.S.- Sidhwalia, Distt- Gopalganj.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. The Principal Secretary, Social Welfare Department, Bihar, Patna.
3. The Director, Social Welfare Department ICDS, Directorate, Bihar, Patna.
4. The Commissioner, Saran Division, Chapra.
5. The District Magistrate, Gopalganj.
6. The District Programme officer, Gopalganj.
7. The Bal Bikash Priyojna Padadhikari Barauli Block, Gopalganj.
8. The Mukhia, Gram Panchayat Larauli Block Barauli, Gopalganj.
9. The Panchayat Secretary Gram Panchayat Ralauri, Block Bauli, Gopalganj. Shikha Devi, W/o Manoj Kumar Singh, R/o Village – Dangri, PO – Bishunpura Bazar, PS – Sidhwalia, District - Gopalganj

... .. Respondent/s

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**Appearance :**

|                      |   |                                          |
|----------------------|---|------------------------------------------|
| For the Petitioner/s | : | Mr Yogendra Prasad Sinha, Advocate       |
| For the S t a t e    | : | Mr Mujtabaul Haque, GP XII               |
|                      |   | Mr Manish Kumar, AC to GP XII            |
| For Respondent No 10 | : | M/s Ashok Kr Mishra, Varun Kr, Advocates |

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**CORAM: HONOURABLE MR JUSTICE MADHURESH PRASAD**

**ORAL JUDGMENT**

**Date : 30-07-2019**

Heard learned counsel for the petitioner, respondent-State as well as the private respondent.

2 Learned counsel for the petitioner submits that the order of the Commissioner is not sustainable in the eyes of law since during pendency of the appeal, the Guidelines had been



amended and Deputy Director (Welfare) had been made the Appellate Authority under the Guidelines and, therefore, order passed by the Commissioner, Saran Division is not sustainable since the Commissioner was not the Appellate Authority after amendment on 17.05.2013. It is also submitted that the consideration of the Commissioner is incorrect to the extent that the same has not taken into consideration the fact that the Mukhiya was a close relative and, therefore, the order is unsustainable in law.

3 Learned counsel for the respondent-State, on the other hand, submits that appeal was filed in the year, 2011. At that point of time, the Original Authority in respect of the disputes as regards the removal of Angan Bari Sevika was the District Magistrate, Accordingly, Commissioner was the Appellate Authority.

4 Amendment of 17.05.2013 not only changes the Appellate Authority but original jurisdiction is also amended and instead of District Magistrate, District Programme Officer has been made the first Authority. Order of the District Magistrate had already been challenged in the earlier proceeding. Further, it is submitted that the order of the District Magistrate could not be subject to appeal before the Deputy Director (Welfare), the



Appellate Authority after the amendment and, as such, the order passed by the Commissioner is sustainable as the appeal could not have been laid before the Deputy Director (Welfare). Other aspect of the matter is that the District Magistrate has considered the fact that the application of the petitioner was received late. The same is also evident from Annexure 3 of the writ petition which shows receiving with a clear note that application was received belatedly.

5 This aspect of the matter is disputed by the petitioner's counsel who submits that the Panchayat Secretary had in fact received the application on time and gave a false receiving that the same had been received late. The issue raised by the petitioner is a disputed issue for which this Court cannot exercise jurisdiction under Article 226 of the Constitution of India.

6 On this score also, findings of the Commissioner, Saran Division in the order dated 12.04.2014 does not require any interference in these proceedings.

7 Writ petition is devoid of merit and the same is dismissed.

**(Madhuresh Prasad, J)**

**M.E.H./-**

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