

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No 18664 of 2011

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SUNITA KUMARI W/O Shri Upendra Yadav R/O Village- Laharniya, Gram
Panchayat- Mirjawa, P.S. Anchal- Triveniganj, District- Supaul

... .. Petitioner/s

Versus

1. THE STATE OF BIHAR
2. The Principal Secretary, Department Of Human Resources Development,
Government Of Bihar, Patna
3. The Director, Social Welfare Department, Government Of Bihar, I.C.D.S.
Directorate, Indira Bhawan, West Boring Canal Road, Patna
4. The Commissioner, Koshi Division, Saharsa
5. The District Superintendent Of Education, Supaul
6. The District Magistrate-Cum-District Officer, Supaul
7. The District Programme Officer, Supaul
8. The Child Development Project Officer, Triveniganj, District- Supaul

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr Amrit Abhijat, Advocate
For the Respondent/s : Mr Rakesh Ranjan, AC to AAG XVIII

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CORAM: HONOURABLE MR JUSTICE MADHURESH PRASAD

ORAL JUDGMENT

Date : 18-02-2020

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

2 Learned counsel for the petitioner draws attention of
the Court towards the order passed by the Commissioner, Koshi
Division, Saharsa in Angan Bari Revision Case No 56 of 2011. It
is submitted that the order is a non-speaking order and shows total
non-application of mind by the Revisional Authority. The



submission has to be considered in background of the facts. Petitioner, who was Angan Bari Sevika, was removed and her selection was cancelled by order of the District Programme Officer dated 24.01.2011 on certain allegations. The petitioner, thereafter, assailed the order of the District Programme Officer before the District Magistrate, Supaul. Appeal Case No 6 of 2011, filed by the petitioner, was rejected by the District Magistrate. The petitioner, thereafter, availed her remedy of Revision before the Commissioner. The Angan Bari Revision Case No 56 of 2011 has been dismissed by the Commissioner. The order of the Commissioner dated 15.09.2011 passed in Angan Bari Revision Case No 56 of 2011 reads as follows :

“Heard the learned lawyer, perused the speaking order of the Collector (DM). The DM heard both the parties and passed a logically reasoned speaking order. The order of the Collector is upheld.

Appeal is not allowed.”

3 There can be no better example of a non-speaking order, demonstrating total non-application of mind. The remedy of revision available under the extant Guidelines has been rendered futile and nugatory by order of the Commissioner. The same shows non-consideration of the Revision Application filed by the petitioner and, therefore, the remedy of Revision has been



rendered otiose. Such an order so as to render the remedy nugatory cannot be sustained. The importance of assigning reasons has been reiterated by Courts time and again. Consistently, such orders, as have been passed by the Commissioner in the instant case, have been frowned upon by Courts. The Administrative Authority, when dealing with such quasi judicial functions, should pass orders which manifest a consideration and which contain reasons in support of the decision. Importance of assigning reasons has been recently reiterated by the Apex Court in the case of *Kranti Associates Private Limited & Another -Versus- Masood Ahmad Khan & Others*, (2010) 9 Supreme Court Cases 496.

4 Learned State Counsel, however, submits that from 27.05.2019, new Guidelines have come into existence wherein Collector is the final Authority.

5 This Court would consider the said submission but observe that the order of the Commissioner was passed under the remedy available to the petitioner at that point of time. Illegality in the order passed by the Commissioner cannot stand cured by such coming into force of new Guidelines, that also about 8 years after passing the order. As on the day, the Commissioner was passing the order, i e, 15.09.2011, Revision was a remedy available



to the petitioner. Rendering the same futile, by passing such a non-speaking order, cannot be sustained.

6 The order of the Commissioner dated 15.09.2011 is hereby quashed.

7 The Commissioner, Koshi Division, Saharsa would be required to pass a fresh speaking order in accordance with law containing reasons in support of decision after hearing the necessary parties.

8 Writ petition is allowed to the aforesaid extent.

9 In order to facilitate such decision by the Commissioner, the petitioner should communicate a copy of this order within two weeks from today.

10 The Commissioner should, thereafter, proceed in the matter expeditiously and without any undue delay.

(Madhuresh Prasad, J)

M.E.H./-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	26.02.2020
Transmission Date	NA

