

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.23555 of 2019

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Pinki Devi W/O Pancham Sah, R/O Vill.- Dabarhiya, P.O.- Darauli, P.S.-
Bhabhua, Distt.- Kaimur at Bhabhua.

... .. Petitioner/s

Versus

1. The State of Bihar through Principal secretary Social Welfare Department,
Bihar Patna.
2. The Deputy Director, I.C.D.S., Patna.
3. Collector cum District Magistrate, Kaimur at Bhabhua.
4. The District Programme Officer, Kaimur at Bhabhua.
5. The Child Development Officer, Kaimur at Bhabhua.
6. Nilam Gupta, W/O Ram Awatar Sha, R/O Vill.- Dabarhiya, P.O.- Darauli,
P.S.- Bhabhua, Distt.- Kaimur at Bhabhua.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Parth Gaurav, Adv.
For the Respondent/s	:	Mr. Lala S. N. Ravi AC to GP-2
For Respondent no.6	:	Mr. Achhaibar Singh, Adv.

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CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL JUDGMENT

Date : 29-01-2020

Heard learned counsel for petitioner, learned counsel for
the State-respondent as well as learned counsel for the
Respondent No.-6.

Learned counsel for petitioner is permitted to implead the
Divisional Commissioner, Kaimur at Bhabua as Respondent
No.7 during course of the day.

Learned counsel for the parties are in agreement that on
account of coming into force the new guidelines w.e.f.
27.05.2019 under the order of I.C.D.S. Directorate in the



Department of Social Welfare on 27.05.2019, the Divisional Commissioner, was the Competent Authority to consider and hear the appeal against an order passed by the District Programme Officer. After coming into force the said amended guidelines, the Collector Kaimur, has proceeded to pass the order purporting to exercise the appellate jurisdiction on 29.8.2019. *Prima facie*, the order of the Collector suffers from want of jurisdiction as after 27.05.2019 he was not competent to consider or pass orders on appeal against an order issued by the District Programme Officer, Kaimur, in Case no. 62 of 2018.

The petitioner's counsel submits that now, in view of passing of the order by the District Magistrate, Kaimur, her claim before the Divisional Commissioner may be prejudiced on account of findings recorded therein apart from the fact that delay would stare in the face of her appeal if the same was to be preferred before the Divisional Commissioner.

Having considered the aforesaid submissions, this Court would grant the petitioner four (04) weeks time for availing the remedy of appeal before the Divisional Commissioner, Kaimur at Bhabhua (Respondent no.7) against the order of the District Programme Officer dated 21.01.2019 passed in Case no. 62 of 2018. If the petitioner avail such remedy within the aforesaid



time, the Respondent no.7 shall proceed to consider the same and pass orders thereupon by assigning reasons in accordance with law. While passing the order, the order of the District Magistrate dated 29.08.2019 shall not stand in the way. The final order must be passed by the Divisional Commissioner expeditiously and without undue delay. This Court would please when the entire exercise must be completed within eight (08) weeks from the date on which the appeal is presented by the petitioner's counsel.

Learned counsel for Respondent No.6 also submits that the Respondent No.6 shall fully cooperate in disposal of the appeal for expeditious resolution of the pending disputes.

With the aforesaid directions/observations, the writ petition stands disposed off.

(Madhuresh Prasad, J)

shyambihari/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	06.02.2020
Transmission Date	N/A

