

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No 12337 of 2021

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Neha Rani wife of Sri Ratindra Kumar, daughter of Sri Sanjay Kumar, resident of Village- Rakshadi, Near Santressa School, Khiriband, P.S. and Anchal- Jagdishpur, District- Bhagalpur.

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, General Administration Department, Bihar, Patna.
2. The State of Bihar through Principal Secretary, Social Welfare Department, Bihar, Patna.
3. The Director, I.C.D.S., Directorate, Bihar, Patna.
4. The Joint Director, I.C.D.S. Directorate, Bihar, Patna.
5. The Joint Secretary, Social Welfare Department, Bihar, Patna.
6. The Commissioner, Bhagalpur Division, Bhagalpur.
7. The District Magistrate, Bhagalpur.
8. The District Magistrate, Banka.
9. The District Magistrate, Munger.
10. The District Programme Officer, Bhagalpur.
11. The Child Development Programme Officer, Jagdishpur, District- Bhagalpur.
12. The Circle Officer, Jagdishpur Anchal, District- Bhagalpur.
13. Circle Officer, Shambhuganj Anchal, District- Banka.
14. The Circle Officer, Sadar Munger, District- Munger.
15. The Block Development Officer, Sadar Munger, District- Munger.
16. The Women Supervisor, Child Development Project, Jagdishpur, District- Bhagalpur.
17. The Sarpanch, Gram Panchayat, Maldih, Block- Shambhuganj, District- Banka.
18. The Ward Member No. 5, Gram Panchayat, Maldih, Block- Shambhuganj, District- Banka.
19. Nitu Kumari wife of Sri Rakesh Kumar, and daughter of Sri Shambhu Sharan Mandal @ Shambhu Mandal, Resident of Village- Ricksadih, P.O.- Khiribandh, Police Station and Anchal- Jagdishpur, District- Bhagalpur.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	M/s Indu Bhushan, Priyanka Kumari, Advocates
For the Respondent/s	:	Mr Prashant Pratap, GP II
		Mr Lala S N Rais, AC to GP II

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CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD

ORAL JUDGMENT

Date : 17-11-2022

Heard learned counsel for the petitioner and the respondents.

2 The District Programme Officer, Bhagalpur, under order dated 22.07.2019, has found the petitioner's selection as Angan Bari Sevika for Center No 141 to be not in accordance with law and, therefore, has directed that the second empanelled candidate be given the selection letter. The second empanelled candidate is Respondent No 19 to the instant writ petition. In view of the nature of order that this Court proposes to pass, this Court does not consider it necessary to issue notice to her.

3 The brief facts are that against the order of the District Programme Officer, the petitioner preferred an appeal before the District Magistrate. Shortly before the appeal was filed, 2019 Guidelines for selection of Angan Bari Sevika and Sahayika has come into force with effect from 27.05.2019. The appellate/revisional authority, as per the 2019 Guidelines, was the Divisional Commissioner who, by order dated 24.03.2021, has rejected the revision by holding that it is barred by about two years delay.



4 Petitioner's counsel submits that from the order of the District Magistrate itself, it is apparent that he had kept the appeal pending for about two years before rejecting the same for want of jurisdiction. The petitioner, therefore, cannot be held liable for lapse of time in between filing of revision before the Divisional Commissioner and passing of order by the District Programme Officer on 22.07.2019.

5 This submission is apparently correct from bare perusal of the order of the District Magistrate dated 23.12.2020. The appeal had remained pending before him for major portion of two years period which delay has been attributed to the petitioner under order of the Commissioner dated 24.03.2021.

6 The order, therefore, is clearly unsustainable on account of the fact that the District Magistrate has kept the appeal pending for such a long time. The petitioner cannot be made to suffer the consequences.

7 Order of the Commissioner dated 24.03.2021 is, therefore, quashed.

8 Matter is remitted for consideration afresh by the Divisional Commissioner, Bhagalpur Division. The same may proceed in accordance with law after due notice upon Respondent No 19.



9 Writ petition stands allowed.

(Madhuresh Prasad, J)

M.E.H./-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	25.12.2022
Transmission Date	NA

