

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.13200 of 2021**

=====

Rita Devi, aged about 38 years, female, Wife of Shailendra Kumar Singh  
Resident of Village - Khaira Jiwa - Bigha, Post Office - Kataya, Police  
Station- Amba, District- Aurangabad.

... .. Petitioner

Versus

1. The State of Bihar.
2. The Principal Secretary, Department of Social Welfare, Government of Bihar, Patna.
3. The District Magistrate, Aurangabad.
4. The Additional Collector cum additional District Magistrate, Aurangabad.
5. The District Programme Officer, Aurangabad.
6. The Child Development Project Officer, Kutumba, Aurangabad.
7. The Lady Supervisor, Kutumba, Aurangabad.
8. The Mukhiya, Gram Panchayat - Karma Basantpur, Block - Kutmba, District- Aurangabad.
9. The Ward Member of Ward No. 07, Panchayat Karma Basantpur, Block - Kutumba, District- Aurangabad.
10. Smt. Rinku Devi Wife of Sikendra Singh Resident of Village - Khaira, Jiwa Bigha, Post Office - Kataya, District- Aurangabad.
11. Divisional Commissioner, Magadh Division, Gaya.

... .. Respondents

=====

**Appearance :**

For the Petitioner : Mr.Binod Kumar Singh  
For the Respondent/s : Mr. Rajesh Kumar, AC to GP-3

=====

**CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD**  
**ORAL JUDGMENT**

**Date : 20-10-2022**

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

2. Learned counsel for the petitioner is permitted to  
implead the Divisional Commissioner, Magadh Division, Gaya, as  
Respondent No.11.



3. Without going into the merits of the allegations leading to petitioner's selection being cancelled, the learned counsel for the petitioner submits that the order of the District Programme Officer dated 02-01-2021, passed in *Anganwari Sevika/Sahaika Chayan* Appeal Case No-16 of 2019, as contained in Annexure-1 to the writ petition, was assailed before the Additional Collector and the same has been rejected by order dated 16-04-2021, as contained in Annexure-2 to the writ petition. The submission is that the appeal was preferred since the District Programme Officer, while cancelling the petitioner's selection, had observed, in his order, as follows:

"सेविका के पद पर किये गये चयन को तत्काल प्रभाव से रद्द करते हुए अपीलार्थी रिकूँ देवी पति सिकेन्द्र सिंह, ग्राम -खैरा जीवा बिगहा, पो०-कटैया, वार्ड नं०-07, पंचायत-कर्मा बसंतपुर, प्रखण्ड-कुटुम्बा, जिला-औरंगाबाद में अँगनवाडी सेविका के पद पर चयन करने का आदेश बाल विकास परियोजना पदाधिकारी, कुटुम्बा को दिया जाता है इस आदेश से अगर चयनमुक्त सेविका रीता देवी असंतुष्ट हो तो एक माह के अन्दर जिला दण्डाधिकारी -सह- समाहर्ता, औरंगाबाद के न्यायालय में अपील दायर कर सकती है।"

4. However, it is not disputed by any of the parties that the guidelines for selection of *Anganwari Sevika/Sahaika* of 2019 had come into force w.e.f. 27-05-2019 by a letter, which explicitly repeals the earlier guidelines, including the guidelines of 2015 and 2016. Since the order of the District Programme Officer was much after coming into force of the



2019 guidelines, Clause 12 of the Guidelines would be applicable, which reads as follows:-

“12. **अपील-** बाल विकास परियोजना पदाधिकारी के द्वारा पारित आदेश के विरुद्ध 30 दिनों के भीतर जिला प्रोग्राम पदाधिकारी के यहाँ प्रथम अपील दायर की जा सकेगी। अपील दायर होने की तिथि से 45 दिनों के भीतर जिला प्रोग्राम पदाधिकारी मुखर आदेश पारित करेंगे। जिला प्रोग्राम पदाधिकारी के द्वारा पारित आदेश के विरुद्ध 30 दिनों के भीतर संबंधित प्रमंडल के प्रमंडलीय आयुक्त के यहाँ पुनरीक्षण अपील दायर की जा सकती है तथा उनके द्वारा पारित आदेश अंतिम आदेश होगा। जिला प्रोग्राम पदाधिकारी द्वारा ससमय आदेश पारित नहीं करने की स्थिति में परिवाद स्वतः प्रमंडलीय आयुक्त के यहाँ अग्रसारित हो जायेगी और संबंधित जिला प्रोग्राम पदाधिकारी के विरुद्ध नियमानुसार कार्रवाई की जायेगी। ”

5. From bare perusal of Clause 12, it is apparent that the Revisional/Appellate Authority for assailing the order of the District Programme Officer is the Divisional Commissioner.

6. In view thereof, the order dated 16-04-2021, passed by the Additional Collector- cum-Additional District Magistrate Aurangabad, in *Anganwari Sevika/Sahaika Chayan Appeal Case No-04 of 2021*, who is not competent Authority for entertaining the appeal under the 2019 guidelines, is quashed. The petitioner would be at liberty to assail the order before the Competent Authority being the Divisional Commissioner, Magadh Division (Respondent No.11).

7. The petitioner has been misled by the order of the District Programme Officer, Aurangabad (Respondent No.5) to avail the wrong remedy. Therefore, this Court would observe that



if the appeal is preferred within a period of 30 (Thirty) days from today, the same is required to be considered on merits without raising the issue, of the same being delayed.

8. Learned counsel for the respondent No. 10 submits that she would be cooperating for disposal of the appeal expeditiously by appearing before the Divisional Commissioner, Magadh Division, Gaya (Respondent No.11) upon intimation regarding filing of the appeal.

9. The writ application is allowed to the extent indicated above.

(Madhuresh Prasad, J)

shyambihari/-

|                   |            |
|-------------------|------------|
| AFR/NAFR          | NAFR       |
| CAV DATE          | N/A        |
| Uploading Date    | 01-11-2022 |
| Transmission Date |            |

