

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.3425 of 2018**

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Gudiya Kumari wife of Vijay Prasad, Resident of Muhalla- Math, Ward No. 9,  
P.O. P.S.- Rafiganj, District- Aurangabad.

... .. Petitioner/s

Versus

1. The State Of Bihar through its Principal Secretary Social Welfare Department, Government of Bihar, Patna
2. The District Magistrate, Cum Collector, Aurangabad.
3. The District Welfare Officer, Aurangabad.
4. The District Program Officer, Aurangabad.
5. The District Development Commissioner, Aurangabad.
6. The Child Development Project Officer, Block Rafiganj, Aurangabad.
7. Shail Kumari, W/o Uday Kumar Gupta, Grandfather Gupta Prasad, Resident of Mohalla- Thana Gali Ward No.- 9, P.O.+ P.S.- Rafiganj, District- Aurangabad (Bihar).

... .. Respondent/s

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**Appearance :**

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|----------------------|---|-------------------------------------------------------------|
| For the Petitioner/s | : | Mr. Mahendra Thakur, Advocate<br>Mr. Ranjit Kumar, Advocate |
| For the Respondent/s | : | Mr. Sunil Kumar Mandal, SC-3<br>Bipin Kumar, AC to SC-3     |
| For Respondent No.7  | : | Mr. Birendra Kumar Singh, Advocate                          |

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**CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN**  
**ORAL JUDGMENT**

**Date : 10-10-2023**

Heard learned counsel for the petitioner, learned counsel for Private Respondent No.7 and learned counsel for the State.

2. Learned counsel for the petitioner submits that he has challenged the order dated 02.01.2018 passed in Anganwari Appeal Case No.9 of 2016 by Collector,



Aurangabad.

3. Learned counsel for the petitioner submits that the order of Collector, Aurangabad, has solely based on a document, i.e., Residential Certificate dated 08.08.2015 issued from the office of S.D.O., Aurangabad, by which respondent No.7 was treated to be the resident of the area where Anganwari Centre is situated. Learned counsel for the petitioner submits that the said certificate is non-existence as 08.08.2015 was second Saturday and there is no question of issuance of any certificate on the said date. Counsel also submits that under R.T.I. he has demanded the details of those certificate from the office of S.D.O., Aurangabad. In response, it has come that no such certificate has been issued from the office of S.D.O., Aurangabad; whereas the order of Collector is wholly based on the said certificate.

4. Learned counsel for the State submits that correspondence has been made in this regard, but there is no specific reply has come. As such, the counter affidavit and counsel for the State is silent on this argument.

5. Learned counsel for private respondent No.7 submits that he is also not relying on the said residential certificate; rather he is relying on residential certificate which



has been issued on 13.02.2018, which is Annexure-2 of the counter affidavit filed by private the respondent No.7. Counsel for private respondent No.7 submits that the said residential certificate dated 13.02.2018 has been issued from the office of S.D.O. Aurangabad.

6. In this background, this Court is of the opinion that finding of Collector, Aurangabad, is based on a document which is either non-existence or not issued from the office of the S.D.O., Aurangabad. In this view of the matter, the order dated 02.01.2018 passed by Collector, Aurangabad, in Anganwari Appeal Case No.9 of 2016 is hereby set aside.

7. Counsel for the State has informed this Court that the present case is related to appointment of Anganwari which has been guided by Rule of 2016, but in the year 2019 a new rule has come in which the power of hearing appeal has been vested in the Divisional Commissioner.

8. In this view of the matter, the Divisional Commissioner is directed to pass order afresh after granting opportunity to both petitioner and respondent No.7 after opening new miscellaneous case in this matter and he is directed to issue notice to both the parties and call for the record of Anganwari Appeal Case No.9 of 2016 from the office of



Collector, Aurangabad.

9. It goes without saying that Divisional Commissioner shall pass order after hearing all concerned within three months from the date of production of a copy of this order.

**(Dr. Anshuman, J)**

Mkr./-

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