

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.344 of 2022

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Nitu Singh, Wife of Hirday Kumar, resident of Village-Asni, Sahdev Khap,
Police Station-Magadh University, Bodh Gaya, District-Gaya.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Social Welfare Department, Bihar, Patna.
2. The District Magistrate/Collector, Gaya.
3. The District Programme Officer, Gaya.
4. The Child Development Project Officer, Bodh Gaya, Gaya.
5. The Block Development Officer, Bodh Gaya, Gaya.
6. Smt. Rekha Kumari, Wife of Randhir Kr. Yadav, Resident of Village-Asni Panchayat Mora Mardana, Block-Bodh Gaya, Police Station-Magadh University, Bodh Gaya, Gaya.

... .. Respondent/s

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Appearance :

For the Petitioner	:	Mr. Dharmesh Kumar, Advocate
For the State	:	Md. Raisul Haque, SC-10
For Respondent No.6	:	Mr. Siyaram Shahi, Advocate
		Mr. Binod Kumar, Advocate

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CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL JUDGMENT

Date : 27-09-2023

1. Heard learned counsel for the petitioner and learned counsel for the private Respondent No.6, as well as learned counsel for the State.

2. The order of the District Programme Officer has been assailed before, and decided by the District Magistrate by impugned order dated 10.08.2021.



3. The court finds that the order is without jurisdiction as after coming into force of the Guidelines for Selection of Aanganwadi Sevika/Sahayika, 2019 (hereinafter referred as “2019 Guidelines”), the Divisional Commissioner was the competent authority for hearing matters arising out of orders passed by the District Programme Officer.

4. Mr. Siyaram Shahi, learned counsel appearing for the private Respondent No.06, submits that that the selection process was carried on under the Guidelines for Selection of Aanganwadi Sevika/Sahayika, 2016 (hereinafter referred as “2016 Guidelines”). In view of the letter dated 27.05.2019 bringing into force the 2019 Guidelines, he submits that since the process had been initiated under the 2016 Guidelines, the District Magistrate was the competent authority.

5. To appreciate the said submission, the court would consider the letter dated 27.05.2019, which reads as follows:-

“उपर्युक्त विषय के संबंध में कहना है कि समेकित बाल विकास सेवाएँ अंतर्गत बिहार राज्य के ग्रामीण एवं शहरी परियोजनाओं में आँगनबाड़ी सेविका/सहायिका चयन हेतु पूर्व में निर्गत मार्गदर्शिका 2015 (शहरी) एवं 2016 (ग्रामीण) को विलोपित करते हुए नई मार्गदर्शिका-2019 अधिसूचित की जाती है, जिसकी प्रति पत्र के साथ संलग्न की जा रही है।

उक्त मार्गदर्शिका पूर्व विज्ञापित केन्द्रों को छोड़कर निर्गत होने की तिथि से प्रभावी होगी , जिसके अनुरूप बिहार राज्य के



ग्रामीण एवं शहरी परियोजनाओं में आँगनबाड़ी सेविका/सहायिका के चयन की कार्यवाही करने की कृपा की जाय।”

6. On going through the same, the court finds that the 2019 Guidelines have been issued by the Directorate of ICDS, which came into force with effect from issuance of the letter dated 27.05.2019, which clearly stipulates that the earlier guidelines stand repealed.

7. Mr. Siyaram Shahi, however, places reliance and emphasis on the second paragraph of the letter, which has been extracted above.

8. This court finds that the second paragraph only saves the process of selection which has been initiated under the earlier guidelines, so that the same may continue. Insofar as other aspects is clear that the earlier guidelines have been repealed as per letter dated 27.05.2019. Therefore, this Court finds that the remedies as per Clause 12 of the 2019 guidelines shall apply, wherein the Divisional Commissioner is the Appellate/Revisional Authority against the order of the District Programme Officer.

9. The court, therefore, finds that the order of the District Magistrate dated 10.08.2021 is without jurisdiction and the same is quashed.

10. The petitioner may approach the Divisional Commissioner by filing appeal afresh before the Divisional



Commissioner. If he does so within four weeks from the date of receipt/production of a copy of this order, the issue of delay shall not be raised against the petitioner’s appeal.

11. Writ application is allowed.

(Madhuresh Prasad, J)

shashank/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	03.10.2023
Transmission Date	NA

