

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.6447 of 2018**

Shakila Bano, Wife of Khurshid Akhtar, Resident of Ansar Colony, Ward No.5, Dumraon, P.O.P.S.- Dumraon, District- Buxar.

... .. Petitioner/s

Versus

1. The State Of Bihar through the Principal Secretary, Department of social Welfare, Government of Bihar, Patna.
2. The Principal Secretary, Department of Welfare, Government of Bihar, Patna.
3. The District Magistrate, Buxar.
4. The District Programme Officer, Buxar.
5. The Child Development Project Officer, Dumraon, District- Buxar.
6. Rijwana Kausar, Daughter of Obaidul Haque Ansari, Resident of Wans Raj Rai Ki Gali, Ward No.5, Dumraon, District- Buxar.

... .. Respondent/s

**Appearance :**

|                      |   |                               |
|----------------------|---|-------------------------------|
| For the Petitioner/s | : | Mr. Bibhakar Tiwary, Adv.     |
| For the State        | : | Mr. Sunil Kumar Mandal (SC-3) |
|                      |   | Mr. Bipin Kumar, (AC to SC-3) |

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

3      26-02-2024                      Heard learned counsel for the petitioner and learned counsel for the State.

2. The present writ petition has been filed for setting aside the order dated 15.06.2017 passed in case No.105/2015 (annexed as Annexure-10) by the District Magistrate, Buxar by which the appointment of the petitioner as *Aanganwadi Sevika* for *Aanganwadi* Centre No.150, Ward No.5, Dumraon, Buxar has been cancelled.

3. Learned counsel for the State submits that the case



of present petitioner is relating to appointment of *Aanganwadi Sevika Sahayika* guideline 2011 and the remedy under rule/guideline 2011 is to challenge the said order before the Divisional Commissioner has to filed under clause 10.3 and proceeding has to be conducted under clause 10.4 of the said rule/guideline.

4. Upon consideration of the arguments made by the parties, it transpires to this Court that there are series of guidelines which have been issued in the year 2006, 2008, 2010, 2011, 2016 and 2019 for appointment relating to *Aanganwadi Sevika Sahayika* and there is a complete confusion in this regard that for which type of petitioner which rule shall apply. With a view to clarify this situation, it is necessary to apply the proper rule of interpretation in this matter. In this regard, these guidelines relating to appointment of *Aanganwadi Sevika Sahayika* have been prepared in the form of regulations having its genesis under article 47 of the Constitution of India read with National Food Security Act, 2013 as well as decided in case of ***Julee Kumari @ Julee Devi Vs. State of Bihar & Ors.*** reported in ***2023(2) PLJR 253.***

5. The provision of saving clauses are not mentioned in these regulations and there are two laws i.e. one central law



and one State law namely, General Clauses Act, 1897 (Act No.10 of 1897) as well as Bihar and Orissa General Clauses Act, 1917 (Act No. X of 1897) has been framed in which Rule 6 of the General Clauses Act, 1897 states as follows:-

*“Effect of repeal.—Where this Act, or any [Central Act] or Regulation made after the commencement of this Act, repeals any enactment hitherto made or hereafter to be made, then, unless a different intention appears, the repeal shall not-*

*(a) revive anything not in force or existing at the time at which the repeal takes effect; or*

*(b) affect the previous operation of any enactment so repealed or anything duly done or suffered thereunder; or*

*(c) affect any right, privilege, obligation or liability acquired, accrued or incurred under any enactment so repealed; or*

*(d) affect any penalty, forfeiture or punishment incurred in respect of any offence committed against any enactment so repealed; or*

*(e) affect any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation,*



*liability, penalty, forfeiture or punishment as aforesaid; and any such investigation, legal proceeding or remedy may be instituted, continued or enforced, and any such penalty, forfeiture or punishment may be imposed as if the repealing Act or Regulation had not been passed.”*

6. Upon bare reading of the Rule 6 of the General Clauses Act 1897, it becomes crystal clear that the rights for the petitioner has been created by virtue of rule/guideline for appointment of 2011 and therefore, for this petitioner, rule/guideline 2011 shall prevail and under rule/guideline 2011, there is a provision of challenging the order of District Magistrate before the Divisional Commissioner under clause 10.3 and hence, this writ petition is disposed off directing the petitioner to avail the remedy before the Divisional Commissioner within 30 days from the date of notification of this order and the Divisional Commissioner is directed to pass appropriate order within 45 days thereafter as mentioned in the said rule.

7. The delay in filing this appeal is hereby directed to be condoned.



8. With the aforesaid observations, this writ petition is  
hereby disposed off.

**(Dr. Anshuman, J.)**

Divyansh/-

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