

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.988 of 2024

In
Civil Writ Jurisdiction Case No.12548 of 2024

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Pramila Kumari, Wife of Kishore Kumar Vishwakarma, Resident of Village-Daulatpur Simari, P.S-Bihta, District-Patna.

... .. Appellant/s

Versus

1. The State of Bihar through the Secretary, Social Welfare Department, Government of Bihar, Patna.
2. The District Magistrate, Patna.
3. The District Programme Officer, Patna.
4. The Child Development Project Officer, Bihta, Patna.
5. Sarita Pandit Wife of Rajendra Paswan Resident of Village-Daulatpur Simari, P.S-Bihta, District-Patna, At Presently posted as Anganwari Sevika at Centre-Daulatpur Simari Code No. 158, Child Development Project, Bihta.

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr.Dhaneshwar Prasad Gupta, Advocate
For the Respondent/s : Mr. Gyan Prakash Ojha, GA-7

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CORAM: HONOURABLE MR. JUSTICE SUDHIR SINGH
and
HONOURABLE MR. JUSTICE SHAILENDRA SINGH
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE SUDHIR SINGH)

Date : 31-03-2026

Re.: I.A. No. 01 of 2026

The present interlocutory application has been filed seeking condonation of delay of 01 day in preferring the present appeal.

2. For the reasons stated in the interlocutory application, the delay in filing the appeal is condoned.

3. I.A. No. 01/2026 stands allowed.



Re.: L.P.A.No. 988 of 2024

4. Heard learned counsel for the parties.

5. The present *intra court* appeal has been preferred under Clause 10 of letter patent of Patna High Court Rules, against the order dated 22.08.2024 passed by the learned Single Judge in CWJC No. 12548 of 2024, whereby the writ petition was dismissed.

6. CWJC No. 12548 of 2024 was filed by the appellant, seeking the following reliefs:

“For issuance of the appropriate writ/writs, order/order or direction/directions for quashing the order dated 12.10.2022 passed by Learned Collector-Cum-District Magistrate, Patna in Aganbari Appeal No.02/2022-2023, whereby and whereunder the Appeal No.02/2022-2023 was dismissed, and also for quashing the Memo No1574, dated 08.12.2011 issued by the District Programme Officer, Patna by which the Selection of the petitioner on the Post of the Aganbari Sevika was cancelled and further be direct to respondent authority to appoint/Select the petitioner on the Post of Aganbari Sevika after cancel the Selection of the respondents No.5.”

7. The brief facts of the case are that the writ-petitioner/appellant herein was appointed as an Anganbari Sevika on 15.10.2003. During the course of her service, Anganbari Centre was inspected by the Child Development Programme Officer (CDPO) on 27.11.2011 and vide letter no.



245 dated 29.11.2011, an enquiry report was submitted to the District Programme Officer (DPO), Patna. Pursuant thereto, after considering all the facts and materials on record, the DPO, Patna, by order dated 08.12.2011, cancelled the selection of the appellant. Thereafter, the appellant filed Anganbari Appeal Case No. 02 of 2022-23, which was heard and rejected by the appellate authority by order dated 12.10.2022. Against the said orders, appellant filed CWJC No. 12548 of 2024, which was dismissed by order dated 22.08.2024.

8. The learned Single Judge, after hearing the parties and upon consideration of the materials available on record, passed the following order,:

“5. Upon perusal of the impugned order passed by the Collector-cum-District Magistrate, Patna this Court is of the firm view that the order is well reasoned and speaking and there is no need of any interference in this matter.

6. Hence, this writ petition stands dismissed.”

9. Learned Counsel for the appellant submits that the appellant was not present at the Anganwadi Centre at the time when biscuits were distributed by the Sahayika, which allegedly led to illness among the children. Learned Counsel pointed out that from the date of appointment till the date of dismissal, the service record of the appellant remained satisfactory and free



from any adverse remarks. It is further submitted that order passed by the learned Single Judge suffers from legal infirmity and non-application of mind, and therefore, warrants interference by this Hon'ble Court.

10. Learned Counsel for the respondents submits that the District Magistrate, Patna, in Anganbari Appeal Case No. 02/2022–23, after affording due opportunity of hearing to the parties, passed a reasoned order dated 12.10.2022, whereby the appellant was found guilty and consequently, the appeal preferred by the appellant was rejected. It is further submitted that the learned Single Judge, upon due consideration of the materials on record, has rightly dismissed the writ petition. The impugned order, therefore, does not suffer from any illegality or infirmity.

11. Learned counsel for the respondents has brought to the notice of this Hon'ble Court the averments made in the counter affidavit, the relevant paragraph whereof is reproduced hereinbelow:

“8. That it is needful to state that the C.D.P.O., Bihta vide letter no.-245, dated-29.11.2011 has submitted report that on 27.11.2011, the Anganbari Centre-Daulatpur Simari (Code No.-158) has been inspected. The children, namely-Suraj, Raghu, Rakesh, Amn, Anuslika and Puja had stated that on 26.11.2011 only one biscuit was given to them instead of 'Khichari'. Thereafter all the children



became ill and started vomiting. The local residents/villagers had stated against the arbitrary behavior of the Anganbari Sevika (Petitioner). She prepares Poshahar rarely and offers only biscuit/toffee. Further, only 15-20 children are found instead of 40. She use to operate the centre from her house.

9. That in view of the inspection report of the C.D.P.O., Bihta, the District Programme Officer, Patna has found many irregularities and thus sought show cause from the petitioner, which was not found to be satisfactory. The charges against the petitioner have been found to be a serious nature. Thus Case No.-44/2010-11 has been initiated on basis of the report dated-29.11.2011 submitted by the C.D.P.O., Bihta.

10. That the District Programme Officer, Patna had issued notice to the Anganbari Sevika and Sahayika of the said Centre and heard the said case at length. The Anganbari Sahayika had submitted that on-26.11.2011, the Anganbari Sevika did not come at the Centre till 12:00 PM. Due to which 'Khichari' could not be prepared. She came later and gave a packet of biscuit for distributing it to the children and left the Centre saying that she is going to Bihta. Thus poshahar was not given to the Sahayika. There has been lot of oveiwriting found in the attendance register. The District Programme Officer, Patna after considering all the facts on record including the report submitted by the C.D.P.O., Bihta. been passed Thus order has vide memo no.-1574, dated-08.12.2011, whereby the selection of petitioner has been cancelled and the C.D.P.O., Bihta has been directed to ensure that there is no compromise on the standard/quality of meal given to the children.

11. That the petitioner had filed Appeal No.-05/2012 before the District Magistrate, Patna. The District Magistrate, Patna had heard the matter and after considering all the facts on record has passed order vide memo no.-1465, dated-10.06.2013,-whereby the order passed by the



District Programme Officer, Patna has been affirmed.

12. That the petitioner had filed C.W.J.C. No.-4256 of 2015 against the said order passed by the District Magistrate, Patna. The Hon'ble Court after hearing the matter has passed order dated-19.04.2019 directing the Appellate Authority to pass a reasoned and speaking order after hearing the parties.

13. That accordingly, the District Magistrate, Patna has heard the matter in Anganbari Appeal Case No.-02/2022-23 and after giving opportunities to the concerned parties has passed order dated-12.10.2022, whereby the Anganbari Sevika (Petitioner) has been found to be guilty. Thus the appeal filed by the petitioner has been rejected.”

12. The order passed by the District Programme Officer (DPO), Patna, vide Memo No. 1574 dated 08.12.2011, whereby the appellant has been removed from service, is reproduced hereinbelow:

“सेविका एवं सहायिका के बयान से निम्नांकित अनियमितताएँ स्पष्ट होती हैं:-

१. दिनांक- 26.11.11 को निर्धारित अवधि के पूर्व यानि 11.00 AM में अँगनबाडी केंद्र से सेविक चली गई। जबकि उपरिधात पंजी में आगमन का समय 9.00 AM तथा प्रस्थान का समय 1.00 PM दर्ज है।
2. बच्चों के लिए सिर्फ एक पैकेट बिस्कुट उपलब्ध कराना।
3. खिचड़ी बनाने हेतु कोई भी सामग्री सहायिका को नहीं देना।
4. केंद्र पर बच्चों की वास्तविक उपस्थिति कम होने के बावजूद अधिक बच्चों की नियमित उपस्थिति



बनाना।

5. दो-तीन दिन पहले ही केंद्र को नये स्थान पर शिफ्ट किया गया था. परंतु पूर्व से केंद्र किराया का भुगतान लेते रहना।
6. उपस्थिति पंजी में सेविका द्वारा ओवरराइटिंग तथा कटिंग कर बच्चों की संख्या अधिक दर्शाना।
7. बाल विकास परियोजना पदाधिकारी, बिहटा द्वारा दिनांक- 15.09.11 को निरीक्षण के क्रम में 15-20 बच्चों का पाना।
8. आँगनवाड़ी केंद्र पर पोषाहार का मीनू नहीं टाँगा जाना।
9. सहायिका ग्राम- दौघडा पंचायत मुशीपुर की हैं. जो पोषक क्षेत्र से बाहर दूसरे पंचायत में है।
10. पोषाहार नियमित रूप से नहीं बनना।

उपरोक्त तथ्यों के आलोक में सेविका एवं सहायिका द्वारा दिया गया स्पष्टीकरण स्वीकार करने योग्य नहीं है।

अतः श्रीमति प्रमिला कुमारी , सेविका एवं श्रीमती सबिता देवी सहायिका , केंद्र - दौलतपुर सिमरी, कोड सं०- 158 बाल विकास परियोजना, बिहटा का चयन रद्द किया जाता है और बाल विकास परियोजना पदाधिकारी बिहटा को आदेश दिया जाता है कि वे अपने स्तर से सभी आँगनवाड़ी सेविकाओं एवं सहायिकाओं को हिदायत दें कि पोषाहार वितरण एवं खाद्य सामग्री आपूर्ति में गुणवत्ता से कोई समझौता नहीं करे।"

13. The Collector-cum-District Magistrate, Patna, in Anganbari Appeal Case No. 02/2022–23, after affording due opportunity of hearing to the parties and upon consideration of the facts and materials on record, has affirmed the order passed



by the DPO by a reasoned order dated 12.10.2022, which is reproduced hereinbelow:

“अभिलेखबद्ध कागजातों का परिशीलन एवं उभय पक्ष को सुनने के उपरांत न्यायालय इस निष्कर्ष पर पहुँचता है कि आंगनबाड़ी केन्द्र सं 0-158 दौलतपुर सिमरी में घटना के तिथि - 26.11.2011 को प्रमिला देवी, सेविका एवं सविता देवी, सहायिका केन्द्र पर पदस्थापित थीं। उस केन्द्र में पढ़ने वाले बच्चों (1) सूरज, पिता-राजेश विश्वकर्मा (2) रघु एवं राकेश, पिता-शंकर विश्वकर्मा (3) अरूण, पिता-अनिश (4) अनुष्का, पिता-सुरेश विश्वकर्मा (5) पूजा, पिता-मुन्ना साव इत्यादि को एक-एक बिस्कुट खाने को मिला था। बिस्कुट खाने के बाद ही सारे बच्चे बीमार पड़ गये। उनलोगों को पेट में दर्द तथा उल्टी हुयी। उन्हें स्थानीय डॉक्टर से ईलाज कराया गया। इसकी पुष्टि घटना के पश्चात् दिनांक-27.11.2011 को बाल विकास परियोजना पदाधिकारी, बिहटा द्वारा किया गया है। उनके द्वारा बच्चों से पूछने पर जानकारी मिली कि खाना नहीं बना था। मात्र एक-एक बिस्कुट खाने के लिए केन्द्र पर मिला था, जिसे खाते ही तबियत खराब होने लगी। प्रभारी चिकित्सा पदाधिकारी, प्राथमिकी स्वास्थ्य केन्द्र, बिहटा के द्वारा असैनिक शल्य चिकित्सा सह मुख्य चिकित्सा पदाधिकारी, पटना को पत्र सं0-404, बिहटा, दिनांक-28.11.2011 द्वारा सूचित किया गया कि सिमरी ब्रह्मपुरा बिहटा में कुछ बच्चे बीमार है। सूचना मिलने पर डा० कृष्ण कुमार, चिकित्सा पदाधिकारी एवं स्वास्थ्य टीम के साथ घटना स्थल पर पहुँच कर देखा तो 16 (सोलह) बच्चों को एक ही तरह की समस्या थी। सभी बच्चे उल्टी कर रहे थे, जिसमें तीन बच्चों को "उल्टी" और "दस्त" दोनों हो रही थी। चिकित्सा दल द्वारा सभी



बच्चों का उपचार किया गया। इस घटना के संबंध में पूछने पर सेविका प्रमिला देवी द्वारा अपने बचाव में पक्ष रखा गया कि वे प्रखण्ड में आहूत मिटिंग में केन्द्र सहायिका पर छोड़कर चली गई। बैठक में जाने से पूर्व उन्हें पूरक पोषाहार बनाने हेतु कच्ची सामग्री सहायिका को उपलब्ध कराना था एवं पोषाहार बनवाना सुनिश्चित करना चाहिए था। किन्तु अपीलार्थी के द्वारा सहायिका को पोषाहार बनाने हेतु सामग्री जैसे चावल, दाल इत्यादि न देकर बिस्कुट का एक पैकेट बच्चों में वितरण के लिए दिया गया। चूँकि केन्द्र पर उपलब्ध सभी सामग्री के प्रभारी सेविका ही होती हैं। अतः ससमय पोषाहार बनवाने की जिम्मेवारी इनकी होती है, पर इनके द्वारा सही से अपनी जिम्मेवारी का पालन नहीं किया गया। अभिलेख में संलग्न बाल बिकास परियोजना पदाधिकारी, बिहटा के निरीक्षण प्रतिवेदन में उल्लेखित है कि गाँव वालों ने बताया कि सेविका बहुत मनमानी करती हैं और कभी कभी पोषाहार बनाती है। प्रायः सेविका के द्वारा खाने के स्थान पर बिस्कुट एवं टॉफी का वितरण किया जाता है। सेविका पूर्व में अपने घर पर ही केन्द्र का परिचालन करती थी जिसमें 15 से 20 बच्चों को ही रखती थी। बार-बार कहने पर 02 से 03 दिन पहले केन्द्र को नये किराये के कमरे में स्थानान्तरण किया गया था, जबकि पहले से किराया उनके द्वारा लिया जा रहा था। आँगनबाड़ी केन्द्र पर तत्काल ही कच्ची मिट्टी का चूल्हा बना हुआ था, जिसको देखने से प्रतीत होता था कि निरीक्षण की तिथि 27.11.2011 तक इसपर खाना नहीं बना था। अपीलकर्ता के द्वारा यह स्वीकार किया गया है कि बिस्कुट खाने से ही बच्चों की तबियत खराब हुयी है। बाल बिकास परियोजना पदाधिकारी, बिहटा के प्रतिवेदन में यह भी प्रतिवेदित किया गया है के इससे



पहले भी कई तिथियों को जाँच की गयी थी, जिसमें केन्द्र पर अनियमितता पायी गयी थी।

अपीलार्थी प्रमीला कुमारी चयनमुक्त सेविका के विरुद्ध आरोप गंभीर प्रकृति के हैं। सभी आरोप सेविका को ही दोषी ठहराते हैं। सहायिका सेविका के आदेश का अनुपालन करती है। सेविका के आदेश पर ही पोषाहार नहीं बनाया गया और उनके निर्देश पर ही बच्चों के बीच खराब बिस्कुट का वितरण किया गया, जिससे बच्चों की तबियत खराब हुयी। जिससे स्पष्ट होता है कि सहायिका निर्दोष है। सारी जवाबदेही सेविका की है। अपीलार्थी प्रमिला कुमारी, सेविका का अपने कर्तव्य के प्रति लापरवाही प्रमाणित होता है। इस कारण अपीलार्थी प्रमीला कुमारी को सेविका के पद से चयनमुक्त किया गया तथा सहायिका को निर्दोष पाये जाने के कारण पुनः बहाल कर लिया गया।

उपर्युक्त वर्णित तथ्यों एवं अभिलेख में उपलब्ध कागजातों के अवलोकन तथा उभय पक्ष को सुनने के पश्चात् यह स्पष्ट है कि प्रमिला कुमारी, तत्कालीन सेविका कर्तव्य में लापरवाही की दोषी है और उनका तर्क यथोचित नहीं है। अतः अपीलार्थी के अपील को खारिज करते हुए वाद को समाप्त किया जाता है।"

14. Upon perusal of the material on record and after hearing the parties, it is evident that the appellant, while functioning as Sevika, failed to ensure preparation of the prescribed supplementary nutrition for the children and instead distributed biscuits, upon consumption of which several children fell ill, suffering from stomach pain, vomiting, and allied symptoms. It was incumbent upon the appellant to ensure the



proper and effective functioning of the Anganbari Centre in accordance with the prescribed norms. The responsibility of maintaining adequate standards of nutrition and ensuring the safety and well-being of the children rested upon her. In the present case, the materials on record clearly demonstrate that the appellant failed to discharge these essential duties. Such conduct, in the considered opinion of this Court, reflects gross negligence and serious dereliction of duty on the part of the appellant, thereby justifying the action taken by the respondent authorities in cancelling her selection.

15. Further, the appellant has been unable to substantiate the grounds of the present appeal to dislodge the findings of the learned Single Judge. The Scope of a Letters Patent Appeal is limited, and normally in absence of cogent reasons, Division Bench would not differ from a finding of fact recorded by learned Single Judge as the Letters Patent Bench primarily acts as a court of correction. The relevant paragraph of the decision of Hon'ble Supreme Court in ***Baddula Lakshmaiah v. Sri Anjaneya Swami Temple***, reported in (1996) 3 SCC 52, is reproduced as under:

“2.... A letters patent appeal, as permitted under the Letters Patent, is normally an intra-court appeal whereunder the Letters Patent Bench, sitting as a Court of Correction, corrects its own orders in



exercise of the same jurisdiction as was vested in the Single Bench. Such is not an appeal against an order of a subordinate court. In such appellate jurisdiction the High Court exercises the powers of a Court of Error. So understood, the appellate power under the Letters Patent is quite distinct, in contrast to what is ordinarily understood in procedural language. ...”

16. Similarly, it is well settled that interference with findings of fact recorded by the learned Single Judge is warranted only in cases of perversity or patent illegality. In this regard, it is relevant to take note of the judgment of the Hon’ble Supreme Court in ***Narendra & Co. (P) Ltd. v. Workmen***, reported in ***(2016) 3 SCC 340***, wherein it has been held that merely because another view is possible, the order of the Single Judge ought not to be interfered with. The Court observed as follows:

“5. ... Be that as it may, in an intra-court appeal, on a finding of fact, unless the Appellate Bench reaches a conclusion that the finding of the Single Bench is perverse, it shall not disturb the same. Merely because another view or a better view is possible, there should be no interference with or disturbance of the order passed by the Single Judge...”

17. In view of the facts and materials available on record, the discussions made hereinabove, and the law laid down by the Hon’ble Supreme Court, this Court finds no illegality or perversity in the order passed by the learned Single



Judge warranting interference.

18. Accordingly, the present intra court appeal stands dismissed.

19. Pending application(s), if any, shall also stand disposed of.

(Sudhir Singh, J)

(Shailendra Singh, J)

Sujit/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	03.04.2026
Transmission Date	

