

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2036 of 2021

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Mainka Kumari @ Menka Kumari Wife of Chandan Kumar Shah Resident of
Village- Jitwarpur Kumihara Ward No.4, P.S.- Sarairanjan, District-
Samastipur.

... .. Petitioner/s

Versus

1. The State of Bihar through its Principal Secretary, Social Welfare Department, Bihar, Patna.
2. The Director, I.C.D.S. Directorate, Bihar, Patna.
3. The District Magistrate, Samastipur.
4. The District Programme Officer, Samastipur.
5. The Child Development Project Officer, Sarairanjan, Samastipur.
6. Mala Kumari Wife of Dharmendra Kumar Resident of Village- Jitwarpur Kumihara, Ward No.4, P.S.- Sarairanjan, Samastipur.

... .. Respondent/s

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Appearance :

For the Petitioner : Mr. Pankaj Kumar, Adv.

For the State : Mr. Sunil Kr. Mandal, SC-3 with
Mr. Arjun Prasad AC to SC-3
Mr. Bipin Kumar AC to SC-3

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CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL JUDGMENT

Date : 21-06-2022

Heard learned counsel for the petitioner and learned SC-3 representing the State.

2. This writ application has been filed assailing the order dated 09-06-2018 (Annexure-4) passed by the Respondent No 4



(District Programme Officer, Samastipur) whereby the selection of Respondent No.6 as 'Anganwadi Sevika' has been found to be correct. The petitioner has also assailed the order dated 09-03-2020 (Annexure-7), passed by the District Magistrate, Samastipur, in Anganwadi Appeal No. 13 of 2020 rejecting the petitioner's appeal against the said order.

3. The District Magistrate has rejected the appeal by assigning the following reasons under order dated 09-03-2020:-

“अपीलकर्ता द्वारा जिला प्रोग्राम पदाधिकारी (आई0सी0डी0एस0) समस्तीपुर द्वारा पारित आदेश दिनांक 09.06.2018 के विरुद्ध दिनांक 17.01.2020 को काफी विलम्ब से अपील आवेदन दाखिल किया। अपीलकर्ता के विज्ञ अधिवक्ता द्वारा विलम्ब से अपील दायर करने का कारण *Explain* नहीं कर पाये न ही कोई विलम्बक्षान्त आवेदन ही दाखिल किया है।

उपरोक्त से स्पष्ट है कि अपीलकर्ता द्वारा अपील दायर करने में *Inordinate delay* हुआ है।

अतः अपीलकर्ता द्वारा प्रस्तुत अपील आवेदन *Admission* के बिन्दु पर ही अस्वीकृत किया जाता है।”

4. The short background, in which, the order of the District Magistrate has been passed is relevant and are being taken note of. After passing of the order dated 09-06-2018 by the District Programme Officer, Samastipur the petitioner had assailed the same in CWJC No 11048 of 2019. The same was disposed of on 18.12.2019. The order passed in CWJC No 11048 of 2019 reads as follows:-

“*Heard learned counsel for the petitioner and the respondents.*

The grievance of the petitioner in the



present writ application is inaction on the part of the District Magistrate, Samastipur.

Learned counsel for the petitioner submits that the appeal is pending before the District Magistrate, Samastipur since 27-07-2018.

Considering the fact that the appeal is pending before the District Magistrate, Samastipur since 27-07-2018, the writ application is disposed of with a direction to the District Magistrate, Samastipur to take final decision, if not already taken, within a maximum period of 60 days from the date of receipt/production of a copy of this order.”

5. Hard copy of the counter affidavit has been filed by the State counsel.

6. Since the District Magistrate, Samastipur, has specifically assigned a reason that no appeal was pending. The learned State counsel has submitted that by resorting to falsehood in CWJC No. 11048 of 2019, earlier filed by the petitioner, the petitioner obtained a direction for disposal of the appeal pending before the District Magistrate. But no appeal had been filed or was pending.

7. The petitioner's counsel has tried to convince the Court that Annexure-6 is the copy of the appeal filed before the District Magistrate. In order to ascertain whether Annexure-6 was actually filed or not, when the matter was taken up yesterday, the Court allowed the petitioner's counsel time to produce the original of Annexure-6. Today when the matter is



taken up the learned counsel has come back with instructions that the original of Annexure-6 is not available even with the petitioner and that the same might have been misplaced. In such circumstance, the only irresistible presumption, therefore, that arises is that the order of the District Magistrate, Samastipur, so far it records that no appeal had been filed is correct.

8. Since there was no appeal pending, this Court would observe that the finding of the Collector that the petitioner's appeal was filed after inordinate delay, in the opinion of this court does not suffer from any infirmity and does not require any interference.

9. The writ application is accordingly dismissed.

(Madhuresh Prasad, J)

shyambihari/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	28-06-2022
Transmission Date	

