

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8190 of 2021

=====

Rekha Kumari wife of Rakesh Malakar R/o Village - Yodhan bigha, Anchal-
Shekhopur Sarai, Police Station- Shekhopur Sarai, District- Sheikhpura.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Social Welfare, Government of Bihar, Patna.
2. The Director Integrated Child Development Services, Bihar, Patna.
3. The District Magistrate, Sheikhpura.
4. The District Programme Officer, (I.C.D.S.), Sheikhpura.
5. The Block Development Officer, Shekhopur Sarai, Sheikhpura.
6. The Child Development Project Officer, Sarai, Sheikhpura.
7. The Panchayat Secretary, Gram Panchayat Raj, Abari, Block- Shekhopur Sarai, District- Sheikhpura.
8. The Mukhiya, Gram Panchayat Raj, Ambari, Block- Shekhopur Sarai, District- Sheikhpura.
9. Smt. Soni Kumari wife of Sri Shashi Shankar Kumar resident of Village - Sugiya, Ward No. - 9, circle- Shekhopur Sarai, District- Sheikhpura.

... .. Respondent/s

=====

Appearance :

For the Petitioner/s : Mr. Harendra Prasad
For the Respondent/s : Mr. Kumari Amrita (GP-3)

=====

CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
ORAL JUDGMENT

Date : 14-02-2022

The matter has been heard *via* video conferencing due to circumstances prevailing on account of the COVID-19 pandemic.

Learned counsel for State accepts notice for respondent nos. 1 to 8.

Service of notice to respondent no. 9 is dispensed since no adverse order is passed.



In the instant petition, petitioner has prayed for the following relief/reliefs:

For issuance of appropriate writ or writs, direction or directions to the respondent authorities to appoint the petitioner on the post of Anganwari Sewika in the ward No. 10, Village- Yodhanbigha under the Gram Panchayat Raj, Ambari, Block Shekour Sarai, District- Sheikhpura pursuant to the order dated 04.10.2019 passed by the Child Development Project Officer, Sheikhpura whereby and whereunder a direction has been issued to the Mahila supervisor to issue the appointment letter to the petitioner just after completion of the enquiry and further be pleased to set aside the order dated 03.12.2019 passed by the DPO/Respondent No.4 on the ground that the DPO failed to contain that the



Sewika/Sahayika must belong to the same nutrient area Ward No. 10 but the private respondent no. 9 belongs to the other area, namely, Sugia under the Charuavan Gram Panchayat and/or issuance of any other relief or reliefs to which the petitioner may be found entitled in course of hearing of this writ application.

The petitioner without exhausting statutory remedy of appeal presented this petition and petition is not maintainable in view of the Apex Court decision in the case of ***State of Jammu and Kashmir Vs. R.K. Zalpuri and others reported in AIR 2016 SC 3006***, Paragraph-20, which is held as under:

“20. Having stated thus, it is useful to refer to a passage from City and Industrial Development Corporation Vs. Dosu Aardeshir Bhiwandiwalla and others {(2009) 1 SCC 168}, wherein this Court while dwelling upon jurisdiction under Article 226 of the Constitution, has expressed thus:-

“The Court while exercising its



jurisdiction under Article 226 is duty-bound to consider whether:

(a) Adjudication of writ petition involves any complex and disputed question of facts and whether they can be satisfactorily resolved;

(b) The petition reveals all material facts;

(c) The petitioner has any alternative or effective remedy for the resolution of the dispute;

(d) Person invoking the jurisdiction is guilty of unexplained delay and laches;

(e) Ex facie barred by any laws of limitation;

(f) Grant of relief is against public policy or barred by any valid law; and host of other factors”.

In view of the aforesaid decision, the present petition is premature, therefore, the petitioner is at liberty to prefer appeal before the appellate authority within a period of eight weeks from the date of receipt of this order. If such appeal



is preferred by the petitioner, the same shall be considered after giving ample opportunity of hearing to the petitioner as well as respondent no.9-Smt. Soni Kumari. Such exercise shall be completed within a period of four months from the date of receipt of appeal.

Accordingly, writ petition stands disposed of.

(P. B. Bajanthri, J)

Ankit/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	17.02.2022
Transmission Date	NA

