

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6109 of 2021

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Rupa Kumari, Wife of Mr. Lokesh Kumar Mishra, resident of Hissar, P.O.-
Hissar, District-Madhubani.

... .. Petitioner/s

Versus

1. The State of Bihar, The Secretary, Education Dept., Govt. of Bihar.
2. The Director, ICDS, Welfare Department, Indira Bhawan, 2nd Floor, Boring Canal Road, Patna-800001.
3. The District Magistrate, Madhubani, Bihar.
4. The District Programme Officer, Madhubani.
5. The C.D.P.O., Block-Harlakhi (Umgaon) District-Madhubani, Bihar, PIN-847230.
6. The Ward Councilor, ward no-2, Gram-Hissar, P.O.-Hissar, District-Madhubani
7. Aanganbari Sewika, Gram Panchayat-Hissar, village-Hissar, P.O.-Hissar, District-Madhubani
8. Mrs Sulekha Kumari, wife of Sajjan Mishra, resident of Gram Panchayat-Hissar, village-Hissar, P.O.-Hissar, District-Madhubani.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Govind Mohan Thakur, Advocate
For the Respondent/s : Mr. Lalit Kishore (AG)

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

Date : 07-02-2022

This matter is heard *via* video conferencing due to circumstances prevailing on account of the COVID-19 Pandemic.

Learned State counsel accepts notice for respondents.

Learned counsel for the petitioner is hereby directed to furnish a copy of the petition to learned counsel for the State if it has not already served.

Service of notice to eighth respondent-Sulekha Kumari is dispensed with since no adverse order is passed against her.



In the instant petition, petitioner has prayed for the following relief(s):-

“(i) For issuance of appropriate writ or writs, direction or directions for consideration of the selection of the petitioner on the post of the Anganwari Sahayika alter termination of respondent no.8, who has been illegally selected by the respondents and or issuance of appropriate consequential writ or writs under the facts and circumstances of the case.”

The petitioner has statutory remedy of appeal before the appellate authority. Without exhausting the statutory remedy of appeal writ petition cannot be entertained in the light of Hon’ble Apex Court decision in the case of **State of Jammu and Kashmir Vs. R.K. Zalpuri and others** reported in **AIR 2016 Supreme Court 3006** held as under:-

“20. Having stated thus, it is useful to refer to a passage from City and Industrial Development Corporation v. Dosu Aardeshir Bhiwandiwalla and Others, 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 questions 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.”

Accordingly, the present petition stands dismissed as premature reserving liberty to the petitioner to approach appellate authority in filing an appeal.

The appellate authority is hereby directed to take note of Section 14 of the Limitation Act for the purpose of condonation of delay in presenting memorandum of appeal. If such appeal is filed the same shall be considered within a period of four months from the date of receipt of appeal, after giving due opportunity of hearing to eighth respondent-Sulekha Kumari.

(P. B. Bajanthri, J)

Vikash/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	
Transmission Date	N/A

