

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6349 of 2021

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Munni Kumari D/o Shankar Kumar Resident of Village - Jamhra, P.S. - Sorbazar, District- Saharsa.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Social and Welfare Department, Govt. of Bihar, Patna.
2. The Principal Secretary, Social and Welfare Department, Govt. of Bihar, Patna.
3. The Principal Secretary, Education Department, Govt. of Bihar, Patna.
4. The Director, I.C.D.S., Govt. of Bihar, Patna.
5. The Divisional Commissioner, Saharsa.
6. The District Magistrate, Saharsa.
7. The District Programme Officer, Saharsa.
8. The Block Development Officer, Patarghat, District- Saharsa.
9. The Child Development Project Officer, Patgarghat, District- Saharsa.
10. Bebi Kumari W/o Chandan Yadav R/o Village - Jamhra, P.O. - Jamhra, P.s. - sorbajar, District- Saharsa.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Md. Rahmatullah
For the Respondent/s : Mr. Kumari Amrita (Gp3)

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

Date : 07-02-2022

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

2. State counsel accepts notice for respondent Nos. 1 to 9.

3. Service of notice to 10th respondent is dispensed since no adverse order is passed.



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

“(i) For issuance of writ of certiorari or any other appropriate writ order, orders, direction for quashing the order dated 04.01.2021 passed by the District Programme Officer, Saharsa in Anganbari Appeal No. 212/2020 by which the petitioner’s selection on the post of Anganbari Sevika has quite erroneously been cancelled and also directed to take fresh appointment on vacant post.

(ii) For issuance of writ of mandamus or any other appropriate writ, order, orders, direction to the respondents to allow the petitioner to continue her service on the post of Anganbari Sevika under Patarghat Block, District – Saharsa.

(iii) For grant of stay of impugned order as contained in Annexure – 1 of this writ application.

(iv) For grant of any other appropriate relief or reliefs for which the petitioner may be entitled, deemed fit and proper in the facts and circumstances of the case.”

5. 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 V/s. R.K.Zalpuri and others*** reported in **AIR 2016 SC 3006 paragraph-20** which has held as under:

“20. Having stated thus, it is useful to refer to a passage from City and Industrial Development Corporation V/s.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”*

6. In view of the aforesaid decision present petition is premature and not entertainable, therefore, the petitioner is at liberty to prefer appeal before the concerned 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 10th respondent – Bebi Kumari. Such exercise shall be completed within a period of three months from the date of receipt of appeal.

7. Accordingly, writ petition stands disposed off.

(P. B. Bajanthri, J)

GAURAV S./-

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	

Underline Emphasized

