

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6267 of 2021

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Lily Khatoon W/O - Md. Naim Resident of Village - Sakra Bazid, Ward No. - 12, P.O. - Dholi, P.S. - Sakra, Block - Sakra, Block - Sakra, District- Muzaffarpur, State - Bihar, PIN- 843105.

... .. Petitioner/s

Versus

1. The State of Bihar, Bihar.
2. The Principal Secretary, Social Welfare Department, Bihar, Patna.
3. The Director, Integrated Child Development Services, Bihar, Patna.
4. The Divisional Commissioner, Tirhut Division, Muzaffarpur.
5. The District Magistrate, Muzaffarpur.
6. The District Programme Officer, (I.C.D.S.) Social Welfare Department, Muzaffarpur.
7. The Child Development Programme Officer, Block - Sakra, District- Muzaffarpur.
8. The Female Supervisor - cum - Member Secretary, Ward No. - 12, Village - Sakra bazid, Gram Panchayat Raj - Sakra Bazid, P.O. Dholi, P.D. - Sakra, Block - Sakra, District- Muzaffarpur, State - Bihar, PIN - 843105.
9. Pooja Kumari Wife of - Dilip Kumar Resident of Village - Sakra Bazid, P.O. - Dholi, P.s. - Sakra, Block - Sakra, District- Muzaffarpur, State - Bihar, PIN - 813105.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Nalin Kumar

For the Respondent/s : Mr.Md.Raisul Haque (Sc10)

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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 8.

3. Service of notice to respondent No. 9 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 in appropriate nature of setting aside the selection and appointment of the Respondent No. 9 on the Post of Aanganbari Sevika for Anganbari Centre No. 331 situated under Ward No. 12 at Gram Pachayat Raj Sakra Bazid situated at Village – Sakra Bazid, P.O. - Dholi, P.S. - Sakra, Block – Sakra, District – Muzaffarpur.

(ii) For issuance of Writ in appropriate nature for conduction of enquiry in the matter of illegality committed in the said selection process.

(iii) For issuance of Writ in appropriate nature for direction upon Respondent authorities to convene meeting of Aam Sabha / General Body Meeting for the selection on the Post of Aanganbari Sevika for Anganbari Centre No. - 331 situated under Ward No. 12 at Gram Panchayat Raj Sakra Bazid situated at Village – Sakra Bazid, P.O. - Dholi, P.S. - Sakra, Block – Sakra, District – Muzaffarpur.

(iv) For issuance of Writ in appropriate nature for direction upon Respondent authorities to take punitive action against the responsible authority especially against the Respondent No. 7 and 8 for the illegality committed in the selection process;

(v) Any other relief/reliefs that the Petitioner may be found to be entitled to in the facts and circumstances of the present 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 is 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 9th respondent – Pooja Kumari. Such exercise

Underline Emphasized



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	

