

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6389 of 2021

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Geeta Devi @ Geeta Kumari Wife of Kanhaiya Kumar Resident of Village -
Moap Kalan, Post - Moap Kalan, Ward No. 12, P.S. - Imadpur, District-
Bhojpur (Ara)

... .. Petitioner/s

Versus

1. The State of Bihar Through the Principal Secretary of Social Welfare Department, Bihar, Patna
2. The Director, Integrated Child Development Services (ICDS) Scheme, Bihar, Patna.
3. The District Magistrate, District - Bhojpur (Ara)
4. The District Programme Officer, District - Bhojpur (Ara)
5. The Child Development Project Officer, Block - Tarari, District- Bhojpur (Ara)
6. Shila Devi Wife of Dilip Kumar Rajjak, Resident of Village and Post - Moap Kalan, P.S. - Imadpur, District - Bhojpur (Ara)

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Sunil Kumar Singh No.10
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

The matter has been 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
5.

3. Service of notice to 6th respondent is dispensed since
no adverse order is passed.

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



“(i) To issue a writ of mandamus or any other writ or writs, direction or directions commanding upon the respondent authorities to cancel the appointment of Respondent No. 6, who has wrongly and illegally been appointed on the post of Anganbari Sevika of Anganbari Centre, Moap Kalan (East South) Centre No. 195 situated in ward No. 12, P.S. - Imadpur, Block – Tarari, District – Bhojpur and further to appoint the petitioner at the said post as she is top in the merit list, belongs to the majority caste and also having less income than that of the Respondent No. 6, whose father-in-law was a Postal employee (now retired).

(ii) To pass any such other order or order as the Hon’ble Court may deem just 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 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.

Underline Emphasized



- (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. 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 6th respondent – Shila Devi. Such exercise shall be completed within a period of three months from the date of receipt of such appeal.

7. Accordingly, writ petition stands disposed off.

(P. B. Bajanthri, J)

GAURAV S./-

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	

