

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7327 of 2021

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Sahjahan Wife of Md. Nooruddin Resident of Village- Dema, P.s.- Parsauni,
District- Sitamarhi.

... .. Petitioner/s

Versus

1. The State of Bihar Through the Principal Secretary, Social Welfare Department, Govt. of Bihar, Patna.
2. The Director I.C.D.S., Bihar, Patna.
3. The District Magistrate Sitamarhi.
4. The District Programme Officer (I.C.D.S.) Sitamarhi.
5. The Sub- Divisional Officer Belsand, District- Sitamarhi.
6. The Block Development Officer Parsauni, District- Sitamarhi.
7. The C.D.P.O. Parsauni, District- Sitamarhi.
8. Ribha Kumari Wife of Rajesh Kumar Ram Resident of Village- Dema, P.S.- Parsauni, District- Sitamarhi.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Madhubala Verma
	:	Mr. Ajay Kumar Verma
For the Respondent/s	:	Mr. Lalit Kishore (Ag)

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

Date : 10-02-2022

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 7.

3. Service of notice to respondent No. 8 is dispensed since no adverse order is passed.

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



“That by this writ application, the petitioner craves indulgence of this Hon’ble Court for issuance of appropriate writ/direction/order to the respondents for appointment of the petitioner on the post of Anganwari Sewika in Gram Panchayat Raj Dema, Ward No. 9, Centre No. 9, Block – Parsauni, District- Samastipur after cancelling the appointment of Respondent No. 8 who has been illegally appointed on the said post against the merit list by the respondents.”

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;

Underline Emphasized



(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 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 8th respondent – Ribha 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	

