

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7329 of 2021

Vibha Kumari Wife of Mukesh Kumar Resident of Village- Motnaze, P.O. Mahuawa, P.S.- Bathnaha, Distt.- Sitamarhi.

... .. Petitioner/s

Versus

1. The State of Bihar Through the Secretary Social Welfare Department, Bihar, Patna.
2. The State of Bihar Through the Director, I.C.D.S. Bihar, Patna.
3. The Distt. Magistrate Sitamarhi.
4. The Distt. Program Officer Sitamarhi.
5. The Child Development Officer Bathnaha.
6. The Ladies Supervisor Block- Bathnaha.
7. Khushboo Kumari W/o Surendra Mahto Resident of Village- Motnaze, Ward-14, P.O.- Mahuawa, P.S.- Bathnaha, Distt.- Sitamarhi.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Devendra Kumar
For the Respondent/s : Mr. Lalit Kishore (Ag)

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

Date : 17-02-2022

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 6.

3. Service of notice to respondent No. - 7 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 the nature of mandamus and directing and commanding the respondent authorities for produce appointment letter in favour of petitioner whereby and where under the department concern who have illegally selected the Respondent No. 07 conceal the two forged certificate.

(ii) For further direction to the respondent’s authority to cancel the selection letter of the respondent no. 07 and also direction to select to the petitioner having appropriate candidates or highest marks in merit list.

(iii) For any other relief/reliefs to which the petitioner is found entitled in accordance with law for the end of justice.”

5. The petitioner without exhausting statutory remedy of appeal presented this petition and petition is premature 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. 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 7th respondent – Khushboo 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	

