

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8010 of 2021

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Mira Bharti, Wife of Hari Shanker Kumar Yadav, Resident of Village-Basant Jagjivan, Ward No. 1, Block-Purnahiya, P.S.-Purnahiya, District-Sheohar (Bihar), C/o-Shiv Prasad Yadav, Ward No. 4, Village and P.O.-Chakmahila, P.S. Sitamarhi, District-Sitamarhi.

... .. Petitioner/s

Versus

1. The State of Bihar through the Director I.C.D.S., Government of Bihar, Patna.
2. District Magistrate, Sheohar.
3. The District Program Officer, Sheohar.
4. The C.D.P.O., Purnahiya, Sheohar.
5. Rabina Kumari, Wife of Ravi Shankar Kumar, Resident of Village-Basant Jagjivan, Ward No. 1, Block-Purnahiya, P.S.-Purnahiya, District-Seohar (Bihar).

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Krishna Murari
For the Respondent/s : Mr. Lalit Kishore (Ag)

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CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
ORAL JUDGMENT
Date : 14-02-2022

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 4.

3. Service of notice to respondent No. 5 is dispensed since no adverse order is passed.

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



“That this mandamus writ application is being filed for issuance of direction to the District Program Officer, Sheohar (Respondent No. 3) to consider the application dated 22.02.2021 filed before him for appoint of the petitioner on the Post of Anganbari Sevika as her at Sl. No. 2 and after withdrawal of candidature Sl. No. 1 Sima Kumari, She is at TOP of in Merit list, removing the Respondent No. 5 Rabina Kumari.”

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, the present petition is premature, therefore, the petitioner is at liberty to prefer appeal before the 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 5th respondent – Rabina 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	

