

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7516 of 2021

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Pooja Kumari, Wife of Birendra Kumar Singh, resident of Village Bankara,
Panchayat Patharabari, Ward No. 12, block Jokihat, Police Station-Jokkihat,
District Araria.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Social Welfare Department, Government of Bihar, Patna.
2. The District Magistrate, Araria.
3. The District Programme Officer, Araria.
4. The Child Development Project Officer, Jokkihat, District Araria cum Deputy Chairman, Selection Committee, Araria.
5. The Block Development Officer, Jokkihat-cum-Chairman, Selection Committee, Araria.
6. Mahila Supervisor-cum-Secretary, Selection Committee, Araria.
7. Nalisa Kumari, wife of Bidyanand Mandal, resident of Village Bankara, Panchayat Patharabari, Ward No. 12, block Jokkihat, Police Station Jokihat, District Araria.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Ravindra Nath Dubey
For the Respondent/s : Mr. Lalit Kishore (Ag)

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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 7th respondent is dispensed since no adverse order is passed.

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



“That this writ application is being filed for issuance of writ/writs, order/orders, direction/directions for quashing the appointment letter in favour of the Respondent No. 7 dated 23.1.2021 issued under the signature of Respondent No. 6 in illegal manner because the name of the petitioner in final merit list is at serial no. 2 and the name of the Respondent No. 7 in the final merit list is at serial no. 4 but ignoring the merit of the petitioner, the Respondent No. 7 has been appointed illegally and further direct the Respondent Nos. 2 and 3 to examine the matter and direct the Respondent No. 4 to appoint the petitioner because the petitioner’s name is at serial no. 2 and Respondent No. 7’s name is at serial no. 4 in the final merit list and further direct the respondents to allow the petitioner to join on the post of Anganbari Sevika of Ward No. 12, Patharabari Panchayat, District Araria and further for any other relief or reliefs as the petitioner is found legally entitled to in the facts and circumstances of the case for the ends 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;

(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 – Nalisa 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	

Underline Emphasized

