

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8593 of 2021

Prabhavati Kumari W/o Ranjeet Kumar Resident of Village - Khori Pakar,
P.S. Sahebganj, District- Muzaffarpur.

... .. Petitioner/s

Versus

1. The State of Bihar Bihar.
2. Principal Secretary, Social and Welfare Department, Govt. of Bihar, Patna.
3. Director, Social Welfare Department, Govt. of Bihar, Patna.
4. District Magistrate-cum-Collector, Muzaffarpur.
5. District Programme Officer, Muzaffarpur.
6. Child Development Project Officer, (CDPO) Sahebganj, District-
Muzaffarpur.
7. Mukhiya Gram Panchayat Raj Bishunpur Kalyan, P.S. Sahebganj, District-
Muzaffarpur.
8. Puja Kumari Daughter of Sonelal Ram Resident of Village - Majhaulia,
Ward No. 4, P.S. Mehshi, District- East Champaran.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Arun Kumar, Adv.
For the Respondent/s : Mr.Prashant Pratap (GP2)

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

2 14-02-2022 The matter is heard via video conferencing due to
circumstances prevailing on account of the COVID-19 pandemic.

State counsel accept notice for respondent no.1 to 7.

Copy of the petition shall be served on the State counsel.

Service of notice to 8th respondent, Puja Kumari is
dispensed since no adverse order is passed against her in the present
petition.

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



“ To quash the selection of the respondent no.8 from the post of Anganbari Sevika of Ward No.7 under gram panchayat Raj Bishunpur Kalyan P.S. Sahebganj, District-Muzaffarpur who is not Bahu of village Khoripakar of P.S. Sahebganj gram panchayat Bisunpur Kalyan as District Muzaffarpur but has been selected/appointed by the respondent no.6 illegally on forged paper showing that she is the wife of one Laukesh Kumar of village Khoripakar P.S. Sahebganj, District Muzaffarpur and direct the state respondent to select/appoint the petitioner on the said post of Anganbari Sevika of Ward No.7 gram panchayat Bishunpur Kalyan, P.S. Sahebganj, District-Muzaffarpur and to pay the remuneration to her.”

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;
- (f) Grant of relief is against public policy or barred by any valid law; and host of other factors"

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 8th respondent Puja Kumari. Such exercise shall be completed within a period of three months from the date of receipt of appeal.

Accordingly, writ petition stands disposed off.

(P. B. Bajanthri, J)

Prakash Narayan /-

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