

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8315 of 2021

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Punam Devi, W/o Bacha Lal Paswan, R/o Village-Bairi, P.O. Mahadah, P.S. Itarhi, Mahdah, Buxar, Bihar-802103.

... .. Petitioner/s

Versus

1. The State of Bihar, Through the Principal Secretary, Department of Social Welfare, Government of Bihar, Patna.
2. The Director, Integrated Child Development Services, Government of Bihar.
3. The District Magistrate, Buxar.
4. The District Programme Officer, Buxar.
5. Soni Devi, W/o Santosh Kumar, R/o Harpur Jalwansi, Itarhi, Buxar-802103.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Mayuri

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 has been heard *via* video conferencing due to circumstances prevailing on account of the COVID-19 pandemic.

Learned counsel for State accepts notice for respondent nos. 1 to 4.

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

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

*(i) For issuance of direction,
order or writ, including a writ in the*



nature of mandamus commanding the concerned respondent authorities to declare the petitioner as the selected candidate for the post of Aanganwadi Sevika as she fulfills all the eligibility criteria.

(ii) For issuance of a direction, order or writ, including a writ in the nature of mandamus commanding the concerned respondent authorities to modify the merit list published on 24.06.2019 as the selected candidate was disqualified from being appointed to the post of Aanganwadi Sevika in accordance with the guidelines issued for the same.

(iii) For issuance of any other relief/reliefs which it may deem to be fit and proper with the facts and circumstances of the present case.

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 Vs. 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 Vs. 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 respondent no. 5-Soni Devi. Such exercise shall be completed within a period of three months from the date of receipt of the appeal.

Accordingly, writ petition stands disposed of.

(P. B. Bajanthri, J)

Ankit/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	18.02.2022
Transmission Date	NA

