

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8728 of 2021

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Mamta Devi wife of Rakesh Kumar Resident of village - Maliyabari, Ward No. 5, P.O. Fulhatta, P.S. Bela, Block - Parihar, District- Sitamarhi.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. The Principal Secretary, Social Welfare Department, Government of Bihar, Patna.
3. The Director, Integrated Child Development Services, Bihar, Patna.
4. The District Magistrate, Sitamarhi District- Sitamarhi.
5. The District Programme Officer (ICDS), Sitamarhi, District- Sitamarhi.
6. The Child Development Project Officer, Parihar, District- Sitamarhi.
7. The Ladies Supervisor, Parihar, District- Sitamarhi.
8. The Ward Member - cum - Chairman, Selection Committee Ward No. 5 of Naranga Gram Panchayat, Block - Parihar, District- Sitamarhi.
9. Ranjita Kumari wife of Rajiv Kumar @ Rajiv Sah, wife of Rajiv Kumar @ Rajiv Sah, Resident of village - Maliyabari, Ward No. 5, P.O. Fulhatta, P.S. Bela, Block - Parihar, District- Sitamarhi.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Pushpendra Kumar Singh
For the Respondent/s : Mr. Suman Kumar Jha, AC to AAG-3

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

Date : 22-02-2022

Heard the learned counsels for the parties.

2. State counsel accept notice for respondent nos. 1 to 8. Notice to respondent no. 9 is dispensed since no adverse order is being passed in the present petition.

3. In the instant petition, petitioner has sought for following reliefs:

“(I) For issuance of an appropriate writ in the nature of **MANDAMUS**, commanding and directing the Respondent Authorities particularly the Respondent no. 6 to make fresh selection process pursuant to the order dated 06.02.2021 passed by the Respondent no. 5 and contained in his memo



no. 318 dated 08.02.2021 whereby and where under the Respondent no. 5 has been pleased to hold that the centre in question dominated by the members of Backward Class and cancel the selection of the Respondent no. 9 as Aanganwari Sevika of Aanganwari Centre No. 120 as also directed the Respondent no. 6 to select the suitable candidate in the vacant centre according to departmental guidelines.

(II) For issuance of an appropriate writ in the nature of **MANDAMUS**, commanding and directing the Respondent Authorities to select the petitioner as Aanganwari Sevika of the Centre No. 120 which became vacant on account of cancellation of selection of the Respondent no.9 on the ground that the petitioner had already submitted her application pursuant to the said advertisement as also belongs to backward class for which the centre in question is dominated as held by the Respondent no.5 and the petitioner is most suitable candidate amongst all the candidates.

(III) For issuance of any other appropriate writ/writs, order/orders, direction/directions for which the writ petitioner would be found entitled under the facts and circumstances of the case.”

4. Petitioner has presented the petition without exhausting the remedy of appeal before the appellate authority.

5. Therefore, the present petition is pre-mature to entertain in the light of Apex Court decision in the case of State of **Jammu and Kashmir V. R.K. Zalpuri** reported in **AIR 2016 SC 3006** at para 20 held as under:

“20. Having stated thus, it is useful to refer to a passage from City and Industrial Development Corporation V. Dosu Aardeshir Bhiwandiwalla and Others, 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 if duty-bound to



consider whether:

- (a) adjudication of writ petition involves any complex and disputed questions 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. Accordingly, the present petition stands disposed of reserving liberty to the petitioner 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 filed, the appellate authority is hereby directed to provide opportunity of hearing to petitioner and Respondent No. 9- Ranjita Kumari and decide the petitioner’s appeal within a period of four months from the date of receipt of aforesaid appeal.

(P. B. Bajanthri, J)

rakhi/-

AFR/NAFR	
CAV DATE	
Uploading Date	02.03.2022
Transmission Date	

