

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8560 of 2021

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Saroj Devi @ Kumari Saroj @ Saroja Devi, wife of Sri Vakil Paswan,
Resident of village-Diya, Ward No.05, Panchayat-Bhokhari, Block+P.S.-
Mohania, District-Kaimur. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Department of Social Welfare, Government of Bihar, Patna.
2. The Director, ICDS, Bihar, Patna.
3. The Collector, District-Kaimur (Bhabua).
4. The District Programme Officer, (ICDS), Kaimur (Bhabua)
5. The Child Development Project Officer, Mohania, District-Kaimur.
6. The Block Development Officer, Block, Mohania.
7. The Women Supervisor, Block-Mohania, District-Kaimur.
8. Kanchan Kumari, Wife of Manjay Kumar, Resident of village-Diya, P.O.-Ramgarh, P.S.-Mohania, District-Kaimur.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Chandra Mohan Jha, Adv.
For the Respondent/s : Mr.Lalit Kishore (AG)

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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, Kanchan 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:



“I. For issuance of an appropriate writ/writs directing the Authorities to get the Petitioner appointed on the Post of Anganbari Sevika at Centre Code No.187 in village-Diya-II, Panchayat-Bhokhari, Ward No.5, Block-Mohania, District-Kaimur after replacing the Respondent no.8, who has been selected illegally even having her lesser merit than the petitioner.

II. For issuance of the appropriate writ again directing the Authorities to take all necessary steps in this regard to make all exercise within a period of time framed as the petitioner is running for over three years in this matter.

III. For providing the relief/reliefs as it deemed fit and proper to the petitioner under the facts and circumstances of the 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 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 Kanchan 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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