

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8688 of 2021

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Heena Kumari W/o Radheshyam Tiwari @ Radha Swami and Daughter of -
Subodh Tiwari, Resident of Village - Bahchha, Ward No. 3 Centre No. 131,
Panchayat- Sirkhindi, P.S. - Halsi, District- Lakhisarai.

... .. Petitioner/s

Versus

1. The State of Bihar through the Director I.C.D.S. Directorate Bihar, Patna.
2. The District Magistrate, Lakhisarai.
3. The District Programme Officer, Lakhisarai.
4. The Child Development Project Officer, Halsi, P.S. - Halsi, District- Lakhis-
arai.
5. Smt. Rupam Kumari W/o - Shri Ranjan Prasad Resident of Village and P.O.
- Bahchha, Ward No. 3, Panchayat Sirkhindi, P.S. - Halsi, District- Lakhis-
arai.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Dheeraj Kumar, Advocate
For the Respondent/s : Mr. Lalit Kishore (Ag)

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

Date : 16-02-2022

This matter is heard *via* video conferencing due to cir-
cumstances prevailing on account of the COVID-19 Pandemic.

Learned State counsel accepts notice for respondent nos.
1 to 4. Service of notice to fifth respondent-Rupam Kumari is dis-
pensed with since no adverse order is passed against her.

In the instant petition, petitioner has prayed for the fol-
lowing relief(s):-

*“(A) A Certiorari for set-
ting aside the order contained in
Memo No. 186 dated 9.2.2021 (An-
nexure-9) issued by the District Pro-
gramme Officer, Lakhisarai (Re-
spondent No.3) in Public complaint*



case No. 12/2018 whereby and where under the selection of the petitioner to the post of Anganwari Sevika has been cancelled.

(B) A Certiorari for setting aside the order contained in Memo No. 125 dated 22.2.2021 (Annexure-10) issued by the Child Development Project Officer, Halsi (Respondent No.4) on the basis of Memo No. 186 dated 9.2.2021 (Annexure-9) petitioner has been dismissed from the Post of Anganwari Sevika, Centre No. 131.

(C) A Mandamus commanding the respondents to reinstate the petitioner in service on the post of Anganwari Sevika with all consequential benefits.

(D) A Mandamus commanding the respondents to stop the process of selection of the Smt. Rupam Kumari (Respondent No.5) to the Post of Anganwari Sevika Ward No.3 Centre No. 131, Sirkhindi, P.S.-Halsi, District- Lakhisarai.

(E) Any other relief or reliefs for which the petitioner may be found entitled to in the fact and circumstances of the present case may be granted to her.”

The petitioner has statutory remedy of appeal before the appellate authority. Without exhausting the statutory remedy of appeal writ petition cannot be entertained in the light of Hon'ble Apex Court decision in the case of **State of Jammu and Kashmir Vs. R.K. Zalpuri and others** reported in **AIR 2016 Supreme Court 3006** 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 is 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.”

Accordingly, the present petition stands dismissed as premature reserving liberty to the petitioner to approach appellate authority in filing an appeal.

The appellate authority is hereby directed to take note of Section 14 of the Limitation Act, 1963 for the purpose of condonation of delay in presenting memorandum of appeal. If such appeal is filed the same shall be considered within a period of four



months from the date of receipt of appeal, after giving due opportunity of hearing to fifth respondent-Rupam Kumari.

(P. B. Bajanthri, J)

Vikash/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	
Transmission Date	N/A

