

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8577 of 2021

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Usha Rani Wife of Rajnish Kumar Resident of village - Handia, P.S and P.O. -
Nardiganj, District- Nawada.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, social Welfare Department, Government of Bihar, Patna.
2. The Director, I.C.D.S., Government of Bihar, Patna.
3. The Director, Social Welfare Department, Patna.
4. The Divisional Commissioner, Magadh Range Division, Gaya.
5. That District Magistrate, Nawada.
6. The District Programme Officer, Nawada.
7. The Child Development Project Officer, Nardiganj, District- Nawada.
8. The ward Member, ward No. 6, Handia Panchayat, Nardiganj Block, Nawada
9. Neelu Kumri @ Nilu Devi wife of Balmukund Singh, resident of village - Handia, P.O. and P.S. - Nardiganj, District- Nawada.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Bipin Kumar, 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 Nos.1 to 8.

Service of notice to ninth respondent, Neelu Kumari

@ Nilu Devi stands dispensed since no adverse order is being

passed in the present petition.

In the instant petition, petitioner has prayed for the

following relief/reliefs:



“(A) A writ in the nature of mandamus or any other appropriate writ/writs, order/orders, direction/directions commanding the respondents for quashing the order bearing Gyapank No.304 dated 10.03.2021 (Annexure-5) passed by District Programme Officer, Nawada whereby and whereunder cancel the appointment letter/appointment of the petitioner and further directed to Child Development Project Officer to appoint the competent person through the Aam Sabha within 07 (seven) days. And further directed the respondent will free for file appeal against the present order.

(B) To stay the operation of Annexure-5 passed by District Programme Officer, Nawada bearing Gyapank No.304 dated 10.03.2021 specially on that part where by whereunder application of the petitioner has been cancelled.

(C) To restrain the issue of appointment letter in favour of the respondent no.8 during the pendency of the writ application because authority has already directed to issue the appointment letter in favour of respondent no.9.

(D) To any other relief/reliefs to which to petitioner may be found to entitled too.”

The aforesaid relief cannot be extended on the score that petitioner has not exhausted alternative remedy, in the light of 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".

Accordingly, writ petition stands disposed off reserving liberty to the petitioner to prefer appeal within a period of eight weeks from the date of receipt of this order. The Appellate Authority is hereby directed to provide opportunity of hearing to the petitioner and ninth respondent, Neelu Kumari @ Nilu Devi before deciding the petitioner's appeal. The above



exercise shall be completed within a period of four months from
the date of receipt of the petitioner's appeal.

(P. B. Bajanthri, J)

Prakash Narayan /-

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