

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8845 of 2021

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Gita Devi Wife of- Yamuna Prasad Mandal @ Yamuna Mandal, Resident of-
Sahora, P.S.- Rangra O.P., District- Bhagalpur.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Social Welfare, Government of Bihar, Patna.
2. The Director, I.C.D.S, Bihar, Patna.
3. The Commissioner, Bhagalpur.
4. The District Magistrate, Bhagalpur.
5. The District Programme Officer, Bhagalpur.
6. The Sub- Divisional Officer, Naugachia, District- Naugachia.
7. The D.C.L.R, Naugachia, District- Bhagalpur.
8. The Child Development Project Officer, Rangra Chowk, Bhagalpur.
9. The Block Development Officer, Rangra Chowk, District- Bhagalpur.
10. Nitu Kumari Wife of- Rajesh Singh @ Rajesh Kumar Singh, Resident of Village- Sahora, P.O.- Madrauni, P.S.- Rangra O.P., District- Bhagalpur.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Ashok Kumar Yadav
For the Respondent/s : Md. Raisul Haque, SC 10

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CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI

ORAL JUDGMENT

Date : 15-02-2022

The matter is heard *via* video conferencing due to circumstances prevailing on account of the COVID-19 pandemic.

2. State counsel accepts notice for respondent Nos. 1 to 9.

3. Service of notice to respondent No. 10 is dispensed since no adverse order is passed against her.

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



“That the petitioner prays for issuance of a writ in the nature of mandamus commanding and directions upon the Respondents concerned to appoint the petitioner on the post of Anganwari Sevika of Singh Tola, Bajrangbali Asthan, Sohora Anganwari Centre No. 87, Ward No. 08 under Kaushkipur Sahora Panchayat, Rangra Chowk, Block, District – Bhagalpur for which application was requisitioned from respective candidates in Year – 2018, applied the Form and the petitioner having maximums merit point under EBC – I category candidate as in mapping the majority of beneficiaries are of EBC – I category, petitioner was initially selected for the post in question in the Aam Sabha Meeting held on 04/02/2020 and she was asked the appointment letter was issued to her, on next dated but Respondent, authorities coming in league with wants to appoint private Respondent No. 10 as Anganbari Sevika. But private respondent No. 10 was not applied requisitional from on the post of Anganwarid Sevika and not name in figure at additional selection index (Megha index) for the post of Anganwari Sevika. Without applied requisitional form, no cancelling, not name mention in selection index for the post of Anganwari Sevika inserted the name of Private Respondent No. 10 and appointed the private Respondent No. 10 on the post in question.”

5. 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”

6. In view of the aforesaid decision present petition is premature and not entertainable, therefore, the petitioner is at liberty to prefer appeal before the concerned 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 10th respondent – *Nitu Kumari*. Such exercise shall be completed within a period of three months from the date of receipt of appeal.

7. Accordingly, writ petition stands disposed off.

(P. B. Bajanthri, J)

GAURAV S./-

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	

Underline Emphasized

