

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9626 of 2021

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Nitu Kumari @ Nitu Devi wife of Pradip Das, resident of village - Pipra Santpur, Ward No. 04, Police Station and Anchal Mainatand, District- West Champaran.

... .. Petitioner/s

Versus

1. The State of Bihar through the Additional Chief Secretary, Department of Welfare, Bihar, Patna.
2. The Director, I.C.D.S., Patna, Bihar.
3. The District Magistrate, Bettiah, West Champaran.
4. The District Programme Officer, Bettiah, West Champaran.
5. The Child Development Project Officer, Block, Mainatand, West Champaran.
6. Asha Kumari, wife of Rajnikant Kumar, resident of village - Pipara Santpur, Ward No. 04, Police Station and Anchal Mainatand, District- West Champaran.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Ram Kishun Prasad
For the Respondent/s : Mr. Gyan Prakash Ojha (GA-7)

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

Date : 18-02-2022

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

Learned counsel for State accepts notice for respondent nos. 1 to 5.

Service of notice to respondent no. 6-Asha Kumari



is dispensed since no adverse order is passed against her.

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

“For issuance of writ/writs, direction/directions, order/orders to the respondents authority:

I. For direction for taking fresh process for selection of Angan Bari Sevika at Centre No. 192 of Ward No.04.

II. For further direction to cancel the earlier process of selection of Anganbari Sevika at aforesaid Centre.

III. For direction of staying of training process of private respondent no.6 which is likely to sent.

IV. For any other relief/reliefs for which petitioner is found entitled in the facts and circumstances of the present case.”

The petitioner is stated to have submitted representation on 11.02.2022 to different authorities. However,



his grievance is relates to selection and appointment of respondent no.6-Asha Kumari. The petitioner has not questioned the validity of selection and appointment of respondent no.6-Asha Kumari before the appellate authority.

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 Vs. 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 Vs. 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 in questioning the validity of selection and appointment of respondent no.6-Asha Kumari within a period of eight weeks from the date of receipt of this order. If such appeal is preferred by the petitioner, the appellate authority is hereby directed to decide the petitioner's appeal after giving ample opportunity of hearing to the petitioner as well as respondent no. 6-Asha Kumari. Such



exercise shall be completed within a period of three months from the date of receipt of the petitioner’s appeal to be filed.

With the above observation, writ petition stands disposed of.

(P. B. Bajanthri, J)

Ankit/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	23.02.2022
Transmission Date	NA

