

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8863 of 2021

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Sharda Devi, W/o Rakesh Kumar Yadav, R/v and P.O.-Lal Saraia, P.S.-
Majhawaliya, District-Bettiah (West Champaran).

... .. Petitioner/s

Versus

1. The State of Bihar through the Additional Secretary Social Welfare Department, Patna, Bihar.
2. The Collector, Bettiah West Champaran.
3. The Director, ICDS, Bettiah West Champaran.
4. The Sub Divisional Officer, Bettiah West Champaran.
5. The District Programme Officer, Bettiah West Champaran.
6. The Child Development Project Officer, Majhawaliya, West Champaran.
7. The Mukhiya, Panchayat-Lal Saraia, Bettiah West Champaran.
8. The Ward Member, Ward No. 10 Lal Saraia, Bettiah West Champaran.
9. Priyanka Kumari, W/o Santosh Thakur, Majhauria, Lal Saraia, Ward No. 10 Bettiah West Champaran.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Raj Kishore Prasad
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

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 8.

3. Service of notice to respondent No. 9 is dispensed since no adverse order is passed.

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



“(i) For issuance of the writ in the nature of the Mandamus directing the respondents to re-count the population of the ward No. 10 in which near about 13 houses of backward cast were left to count the population thereof and Aanganbari Centre No. 338 was wrongly declared as the majority of Extreme Backward Cast showing 15 more people than backward cast which is itself irregularity in preparation Mapping panzi on the basis of which the selection of the private respondent was made illegally.

(ii) For issuance of other direction to the respondent to stay the further processes of the selected private respondent unless the fresh counting and mapping panzi are completed.

(iii) For issuance of any other direction to the respondents to make a fresh selection of Aanganbari Centre No. 338 after recounting by adding the house of backward cast which were left and preparation of fresh Mapping Panzi.

(iv) For issuance of direction to the respondent to select the petitioner by cancelling the selection of Private Respondent because she was at serial No. 1 in merit list.

(v) For issuance of relief/reliefs for which the petitioner is entitled in the eye of law.”

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, the present petition is premature and not entertainable, 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 9th respondent – Priyanka 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

