

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9451 of 2021

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Pinki Kumari Wife of Sakaldev Sah Resident of Village Sarkanda, P.S. Sono,
Anchal Sono, District Jamui.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Human Resources Department, Government of Bihar, Patna.
2. The District Collector, Jamui.
3. The District Programme Officer, Jamui.
4. The Child Development Project Officer, Sono, Jamui.
5. The Woman Supervisor, Sono, Department of Child Development Project, District Jamui.
6. Anita Devi Wife of Indradeo Sah Resident of Village Sarkanda, P.S. Sono, Anchal Sono, District Jamui.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Balram Kapri
For the Respondent/s : Mr. Lalit Kishore (AG)

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CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
ORAL JUDGMENT
Date : 17-02-2022

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-Anita Devi is dispensed since no adverse order is passed against her.

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



“This writ application is being filed by the petitioner, who was Anganwadi Sevika at Ward No.9 Panchayat Chhuchhunariya, within Block Sono, District Jamui, respondent no.6 was the candidate of the same post but, petitioner was selected. Respondent No.6 raised alarm before respondent authority on 26.04.2018, against the selection of petitioner as Sevika in Ward No.9, village Sarkanda Panchayat Chhuchhunariya, Anchal Sono, District Jamui by an order dated 28.03.2018 and respondent no.3 after hearing remove the petitioner from the post of Anganbadi Sevika vide case No. 16/2018, by an order dated 24.07.2020, while Respondent No.3 on earlier occasion on 28.02.18 vide letter No. 211 refuse the prayer of respondent No.6. That the petitioner is



*entitled to remain as Anganwadi
Sevika at Ward No.9 within
Chhuchhnariya Panchayat, Block
Sono, District Jamui, therefore,
petitioner prefer this appropriate
writ/writs, order/orders,
direction/directions to the respondents
as your Lordships may deem fit in the
interest of justice.”*

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 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 respondent no. 6-Anita Devi. Such exercise shall be completed within a period of three months from the date of receipt of the appeal.

Accordingly, writ petition stands disposed of.

(P. B. Bajanthri, J)

Ankit/-

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

