

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9423 of 2021

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Rani Kumari Wife of Sidharth Kumar Rai Resident of Village- Chintawanpur,
Police Station- Paru, District- Muzaffarpur.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Social Welfare Department, Govt. of Bihar, Patna.
2. The Principal Secretary, Social Welfare Department, Govt. of Bihar, Patna.
3. The Director, Integrated Child Development Services, Govt. of Bihar, Patna.
4. The Commissioner, Tirhut Division, Muzaffarpur.
5. The District Magistrate, Muzaffarpur.
6. The District Programme Officer (Establishment), Muzaffarpur.
7. The Child Development Project Officer, Paru, Muzaffarpur.
8. Rinki Kumari Wife of Mukesh Kumar Yadav Resident of Village- Chintawanpur, Police Station- Paru, District- Muzaffarpur.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Ravi Nandan
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 the State accepts notice for respondents.

Learned counsel for the petitioner is hereby directed to serve copy of the petition to learned counsel for the respondents, if it is not already served.

Service of notice to respondent no.8-Rinki Kumari



is dispensed since no adverse order is passed against her.

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

“i) The petitioner prays for issuance of writ of certiorari seeking quashing of the minutes of the meeting of the Aam Sabha dated 17.02.2020 whereby the private respondent, Rinki Kumari having 63% marks has been selected for the post of Sevika in Anganbari Center No. 350, Chintamanpur Pashchim Tola, Paru Block, Muzaffarpur and the petitioner having 67.28% marks has been deprived from selection by showing the residence of petitioner is ward no.1 which is out of nutrition area.

ii) The petitioner further prays for issuance of writ of mandamus for direction to the respondent authorities to appoint the petitioner on the post Sevika in Aanganari Center No. 350,



Chintamanpur Pashchim Tola, Paru Block, Muzaffarpur in place of private respondent as she is daughter daughter-in-law of Awadhesh Kumar Rai who is resident of ward no.2, village Chintamanpur with house number 46 and voter list serial number 47, according to mapping register prepared on the basis of the last voter list published for Panchayat Election.

iii) The petition further prays for issuance of any other appropriate writ, order or direction which your Lordships may deem fit and proper in the facts and circumstances of the case.”

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 appellate authority is hereby directed to decide petitioner's appeal after giving ample opportunity of hearing to the petitioner as well as respondent no. 8-Rinki Kumari. Such exercise shall be completed within a period of three months from the date of receipt of the appeal to be filed by the petitioner.

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

