

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9702 of 2021

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Shahida Warsi W/o Sharif Ahmad Ansari Resident of Village-Sallahpur, P.O.-
Dindayalpur, P.S.-G.B. Nagar, Tarwara, Dist-Siwan.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Social Welfare Department Government of Bihar, Patna.
2. The Additional Chief Secretary, Social Welfare Department, Govt. of Bihar, Patna.
3. The Director, Integrated Child Development Services, Bihar Patna.
4. The District Magistrate, Siwan.
5. The District Programme Officer, Siwan
6. The Child Development Project Officer, Barharia, Siwan
7. Sharda Kumari Daughter of Gopalji Shah, Ward No-13, Resident of Village-Sallahpur,-P.O.-Dindayalpur, P.S.-G.B. nagar, Tarwara, Dist-Siwan.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Madhuri Lata
For the Respondent/s : Mr. Lalit Kishore (AG)

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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 the State accepts notice for
respondent nos. 1 to 6.

Service of notice to respondent no.7 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 appropriate Writ/Writs, direction/directions to the respondents authorities to get the selection process completed for appointment of the petitioner on the post of Anganwari sevika at Dindayalpur Panchayat, Ward No.-13, Block-Barharia, Dist.-Siwan from the advertisement published in 2019, and for quashing of selection process and selection of Respondent No.7 as Anganwari sevika for Dindayalpur Panchayat, Ward No.-13, Block-Barharia, Dist.-Siwan from the advertisement of 2017, which has already been cancelled by Annexure-4 of the writ petition, in the facts and circumstances of the case and for quashing order dated 29.06.2019 passed by the District Programme Officer, Siwan, which is Annexure-5 of the writ petition by which selection



*process of Respondent No.7 as
anganwari sevika from the
advertisement of 2017 for the said
panchayat.”*

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 Bhiwandiwal 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”.

If the petitioner has a grievance against selection and appointment of respondent no.7-Sharda Kumari and sought for quashing of the order dated 29.06.2019 and further direction for consideration of her name. She has a remedy of appeal before the appellate authority-District Magistrate, Siwan. Therefore, the petitioner is at liberty to prefer appeal before the District Magistrate, Siwan within a period of eight weeks from the date of receipt of this order. If such appeal is filed, the District Magistrate, Siwan is hereby directed to decide the



petitioner’s appeal after providing ample opportunity of hearing to the petitioner as well as respondent no.7-Sharda Kumari. Such exercise shall be completed within a period of three months from the date of receipt of such appeal.

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

