

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9966 of 2021

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Sowanti Kumari Wife of Guddu Kumar resident of village- Pipra, P.s.-
Imamganj, district- Gaya

... .. Petitioner/s

Versus

1. The State of Bihar through the Director, Integrated child Development Services (I.C.D.S.) Scheme, Welfare Department, Bihar, Patna
2. The District Magistrate, Gaya
3. The District Programme Officer, Gaya
4. The Block Development Officer, Imamganj, District- Gaya
5. The Child Development Project Officer, Imamganj, District- Gaya
6. Mahila Parwachhika cum Member Sachiv, Selection Committee, bal Bikas Pariyojna, Imamganj, District- Gaya
7. Rekha Kumari W/o Sri Dharmendra Kumar resident of village- Pripara, P.s.Imamganj, District- Gaya

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Ajay Kumar Sinha
For the Respondent/s : Mr.

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

Date : 18-02-2022

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

2. State counsel accept notice for respondent nos. 1 to 6. Service of notice to Respondent No. 7- Rekha Kumari is dispensed since no adverse order is passed against her.

3. In the instant petition, petitioner has sought for following reliefs:

“1. That this is an application on behalf of the petitioner for issuance of an appropriate writ, order or direction for set aside the selection of Respondent No. 7



Rekha Kumari dated 12.10.18 (Annexure: 3 to this petition) on the post of “Anganwadi Sevika” in Village: Pipra under Naudiha Gram Panchayat within Imamganj Project, District: Gaya, by which the selection committee has ignored the higher marks of the petitioner and wrongly interpreting the Clause 5 of the Selection Guidelines, 2016. Also for issuance of a writ in the nature of Mandamus, commanding and directing the respondent authorities to appoint the petitioner on the aforesaid post of Anganwadi Sevika in place of respondent no. 7 Rekha Kumari, who has obtained less marks than the petitioner; And/or be pleased to pass such other order/orders as Your Lordships may deem fit and proper in the facts and circumstances of the case.”

4. The petitioner without exhausting statutory remedy of appeal presented this petition.

5. Therefore, the present petition is pre-mature to entertain in the light of Apex Court decision in the case of State of *Jammu and Kashmir V. R.K. Zalpuri* reported in *AIR 2016 SC 3006* at para 20 held as under:

“20. Having stated thus, it is useful to refer to a passage from City and Industrial Development Corporation V. Dosu Aardeshir Bhiwandiwalla and Others, 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 questions 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. Accordingly, the present petition stands disposed of reserving liberty to the petitioner 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 filed, the appellate authority is hereby directed to provide opportunity of hearing to petitioner and Respondent no. 7- Rekha Kumari and decide the petitioner’s appeal within a period of four months from the date of receipt of aforesaid appeal.

(P. B. Bajanthri, J)

rakhi/-

AFR/NAFR	
CAV DATE	
Uploading Date	02.03.2022
Transmission Date	

