

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10357 of 2021

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Rukhsar Khatoon Wife of Mobarak Ansari Resident of Village- Jhadawa,
P.O.- Dariyapur, Police Station- Harsidhi, District- East Champaran.

... .. Petitioner/s

Versus

1. The State of Bihar Through the Principal Secretary, Social Welfare Department, Bihar, Patna.
2. The Director I.C.D.S. Social Welfare Department, Bihar, Patna.
3. The District Magistrate East Champaran, Motihari.
4. The District Programme Officer I.C.D.S., East Champaran, Motihari.
5. The C.D.P.O. Harsidhi District- East Champaran, Motihari.
6. Naziya Rahman Wife of Shamim Ahmad Ansari Resident of Village- Jhadawa, P.O.- Dariyapur, Police Station- Harsidhi, District- East Champaran.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Madhurendra Kumar
For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI

ORAL JUDGMENT

Date : 25-02-2022

Heard the learned counsels for the parties.

2. In the instant petition, petitioner has prayed for following reliefs:

“A. A writ in the nature of Certiorari or any other appropriate writ/ writs, order/ orders, for quashing the order dated 07.05.2019 passed in Case No. 65 of 2018 by the learned District Programme Officer, I.C.D.S., East Champaran, Motihari whereby and whereunder the learned District Programme Officer did not found the candidature of the Petitioner and Respondent No. 6 proper for the post of Anganbari Sevika at Gram Panchayat Raj, Bhada, Ward No. 10, Harsidhi, East Champaran and directed the C.D.P.O. Harsidhi (Respondent



No. 5) to initiate process of appointment of Anganbari Sewika afresh (Annexure-2).

B. A writ in the nature of Mandamus or any other appropriate writ/ writs, order/ orders, direction commanding the respondent for the following:-

I. To direct the respondent authority to appoint the petitioner on the post of Anganbari Sewika at Gram Panchayat Raj, Bhada, Ward No. 10, Harsidhi, East Champaran as the petitioner is only eligible candidate for the post of Anganbari Sewika amongst all the applicants and pay the consequential benefits thereon.

II. To hold that initial appointment of Respondent No. 6 namely Nazia Rahman is null and void.

C. To any other relief/reliefs to which the petitioner is entitled for and the Hon'ble Court deems fit and proper."

3. Undisputedly, petitioner has statutory remedy of appeal against the order dated 07.05.2019 passed by the District Programme Officer, I.C.D.S., East Champaran, Motihari. Therefore, the present petition is pre-mature in the light of Apex Court's decision rendered in the case 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.”

4. Accordingly, the present petition stands disposed of reserving liberty to the petitioner to prefer an appeal before the appellate authority within a period of eight weeks from the date of receipt of this order. On receipt of petitioner's memorandum of appeal, the appellate authority is hereby directed to decide the same within a period of three months from the date of receipt of petitioner's memorandum of appeal.

(P. B. Bajanthri, J)

rakhi/-

AFR/NAFR	
CAV DATE	
Uploading Date	04.03.2022



Transmission Date	
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