

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3153 of 2021

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Shweta Pandey @ Sheweta Pandey @ Shweta Kumari Wife of Brajesh Kumar Pandey Resident of Village - Udhura, Udhaura, P.O. and Police Station - Brahmpur, District- Buxar.

... .. Petitioner/s

Versus

1. The State of Bihar through its Principal Secretary, Department of Family and Social Welfare, Govt. of Bihar, Patna.
2. The Director Integrated Child Development Services, Bihar Patna.
3. The District Magistrate, Buxar.
4. The Sub Divisional Officer, Dumrao, District- Buxar.
5. The District Welfare Officer, Buxar.
6. The District Programme Officer, (ICDS), Buxar.
7. The Child Development Project Officer, Brahampur, District- Buxar.
8. The Lady Supervisor, C.D.P.O. Office, Bharhpur, District- Buxar.
9. Lali Kumari wife of Tej Narayan Mishra Resident of Village - Udhra, P.O. - Dallupur, P.S. - Brahmpur, District- Buxar.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Raju Kumar
For the Respondent/s : Mr. Prashant Pratap, GP 2

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

Date : 29-01-2022

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

2. State counsel accepts notice for the Respondent Nos. 1 to 8.

3. Issuance of notice to 9th Respondent is dispensed since no adverse order is passed.



4. In the instant petition, petitioner has prayed for the following relief:

“I. To issue an appropriate order/direction/s including a writ preferable in the nature of Mandamus commanding and directing upon the Respondents to inquire into matter with regard to irregularity committed in removal or Chayan Mukati of Anganbari Sewika Centre situated in Ward No. 08 Anganbari Centre 190, Village – Udhra, P.O. - Dullapur, P.S. - Brahmpur, District – Buxar.

II. To direct the Respondents to appoint the Petitioner a fresh to post of Sewika in the said Anganbari Centre whose name appears in Second in the merit list prepared for selection of post in question as such the private respondent did not produce original certificate at the time of making of application or in the Aam Sabha held on 27.09.2019.

III. To quash the order as contained in Memo No. 652 dated 06.07.2020 passed by the Respondent No. 06 whereby and whereunder he was wrongly and illegally directed to appoint the private respondent to the post of Sewika.”

5. 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 V/s. R.K.Zalpuri and others*** reported in **AIR 2016 SC 3006, Paragraph-20** has held as under:

“20. Having stated thus, it is useful to refer to a passage from City and Industrial Development Corporation V/s.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”

6. 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 9th Respondent-Lali Kumari. Such exercise shall be completed within a period of three months from the date of receipt of this order.

7. Accordingly, writ petition stands disposed off.

(P. B. Bajanthri, J)

GAURAV S./-

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	

Underline Emphasized

