

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4095 of 2021

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Mamta Poddar @ Mamta Devi Wife of Sri Krishna Mohan Kumar @ Krishna Mohan Poddar, Resident of Village-Jarang Mallah Toli, Ward No. 8, P.S.-Gaighaat. District-Muzaffarpur.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Social Welfare Department, Government of Bihar, Patna.
2. The Director, Integrated Child Development Scheme, (ICDS). Directorate. Bihar.
3. The District, Magistrate, Muzaffarpur.
4. The District Program officer, Muzaffarpur.
5. The Child Development Project Officer, Gaighaat, Muzaffarpur.
6. Rinku Devi Wife of Ramit Poddar, R/o-Village-Jarang Mallah Toli, Ward No. 8, P.S.-Gaighat, District-Muzaffarpur.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Amitabh Sohan
For the Respondent/s : Mr. Sunil Kumar Mandal, SC 3

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

Date : 31-01-2022

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

2. State counsel accepts notice for respondent Nos. 1 to 5.

3. Service of notice to respondent No. 6 is dispensed.

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

“i. For quashing the engagement of the Respondent No. 6 as Anganbari Sevika of Anganbari Kendra Jarang Purvi, Muzaffarpur, Bihar Centre Code No. 236.



ii. For quashing of the finding of the Respondent No. 4 that the Respondent No. 6 is eligible for engagement as Anganbari Sevika as she does not fulfill the criteria for appointment.

iii. For declaration of the order impugned to be erroneous as the appointment of the Respondent No. 6 is without any scientific verification.

iv. Any other order/orders for which the Petitioner is found entitled to in the facts and circumstances of the present case.”

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;

Underline Emphasized



(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 6th Respondent-Rinku Devi. 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	

