

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.10185 of 2020**

=====

Pavita Devi Wife of Rajaram Ravidas Resident of Hariyadih Bhour, P.S.  
Khaira, District Jamui.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Karya Palak Nidesak, Rajya Swasthya, Samiti, Bihar, Patna.
3. The District Magistrate, Jamui
4. Civil Surgeon Cum Member Secretary, District Health Society, Jamui,
5. The District Programme Manager, District Health Society, Jamui.
6. Prabhari Chikitysa Padadhikari Cum Rogi Kalyan Samiti, Samudayik Swasthya Kendra, Khaira, District-Jamui.
7. Chief Medical Officer, Jamui, District Jamui.

... .. Respondent/s

=====

**Appearance :**

|                      |   |                                   |
|----------------------|---|-----------------------------------|
| For the Petitioner/s | : | Mr. Pankaj Kumar Sinha, Advocate  |
| For the Respondent/s | : | Lalit Kishore (AG)                |
|                      |   | Mr. Kishore Kumar Sinha, Advocate |

=====

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

**Date : 29-04-2022**

Heard learned counsel for the respective parties through  
virtual court proceedings.

2. State counsel accepts notice for respondents.

3. Mr. K.K. Sinha, learned counsel, accepts notice for  
Society.

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

“That this writ application is being  
filed for quashing the order dated 22.08.2020  
issued from the office of District Health



Society, Jamui, Purported to have been signed by Civil Surgeon cum Member Secretary, District Health Society, Jamui contained in Memo No. 908 dated 22.08.2020 by which the petitioner has been dismissed from the post of Mamta Worker posted at Khaira community (Samudayik) Health center and memo No. 173 (NHM) dated 26.08.2020 issued by the Adhyaksha, Rogi Kalyan Samity, Prathmik Swasthya Kendra, Khaira, Jamui, Snnrcutgr-1 and 2 respectively as also for issuance of a writ/writs, order or direction to the respondents in the nature of writ of mandamus to reinstate the petitioner on its post.”

5. Petitioner has a statutory remedy of appeal before the Executive Director against the impugned order, therefore, the present petition is premature in the light 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** which is 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. Accordingly, the present petition stands disposed off.

Reserving liberty to the petitioner to prefer appeal before the Executive Director within a period of eight weeks from the date of receipt of this order. On receipt of such appeal, the Executive Director is hereby directed to decide the petitioner’s appeal within a period of three months from the date of receipt of petitioner’s appeal.

**(P. B. Bajanthri, J)**

GAURAV S./-

|                   |            |
|-------------------|------------|
| AFR/NAFR          |            |
| CAV DATE          |            |
| Uploading Date    | 12.05.2022 |
| Transmission Date |            |

Underline Emphasized

