

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3409 of 2021

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Sunita Kumari, Daughter of Adalat Mahto, Wife of Shri Sanjay Mahato,
Resident of Village- Salempur, Govindpur, Police Station- Bhagwanpur Hat,
District- Siwan.

... .. Petitioner/s

Versus

1. The State of Bihar
2. The Principal Secretary, Welfare Department, Govt. of Bihar, Patna.
3. The Director, Integrated Child Development Services, Bihar, Patna.
4. The Divisional Commissioner, Saran Division, Chapra.
5. The District Magistrate, Siwan.
6. The District Programme Officer, Integrated Child Development Scheme, Siwan.
7. The Child Development Project Officer, Bhagwanpur Hat. District- Siwan.
8. The Lady Supervisor, Bhagwanpur Hat, District-Siwan.
9. Sangeeta Kumari, Daughter of Pujan Mahto, Resident of Village- Salempur, Police Station- Bhagwanpur Hat, District- Siwan.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Umesh Kumar Mishra, Advocate
For the Respondent/s	:	Mr. Gyan Prakash Ojha, GA-7

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

Date : 29-01-2022

This matter is heard via video conferencing due to
circumstances prevailing on account of COVID-19 Pandemic.

2. State counsel accepts notice for respondent nos. 1 to
8.

3. Service of notice to 9th respondent (Sangeeta Kumari)
is dispensed with, since no adverse order is passed.

4. Heard learned counsel for the parties.

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



“(i) For issuance an appropriate writ/writs, order/orders, direction/directions for selection /appointment of the petitioner on the post of Aanganbadi Sahayika in Ward No. 7, in place of private respondent Sangeeta Kumari, Daughter of Pujan Mahto who has been selected/appointed on the basis of forged document and on that basis she is continuing since December, 2017 as Aanganbadi Sahayika in Ward No. 7, in Gram Panchayat Raj, Mora Khas, Block-Bhagwanpur Hat, District Siwan.

(ii) For issuance of an appropriate writ in the nature of mandamus for commanding and directing the respondent authorities concerned to verify the transfer certificate of class – VIII as the same is not genuine one and the petitioner has represented and highlighted the irregularities, which have been committed in selection of private respondent Sangeeta Kumari but in spite of that private respondent Sangeeta Kumari is still continuing as Aanganbadi Sahaiyika.

(iii) For issuance of an appropriate writ in the nature of mandamus for commanding and directing the respondent authorities concerned to terminate the services of the private respondent Sangeeta Kumari as Aanganbadi Sahaiyika and in her place petitioner's selection / appointment be considered as Aanganbari Sahaiyika in Ward No. 7, as she is a genuine candidate.

(iv) For issuance of an appropriate writ in the nature of prohibition by retraining the respondent authorities concerned to allow the private respondent Sangeeta Kumari to continue as Aanganbadi Sahayika in Ward No. 7, in place of private respondent Sangeeta Kumari, Daughter of Pujan Mahto who has been



selected/appointed on the basis of forged document and on that basis she is continuing since December, 2017, as she is not entitled to be selected.

(v) For issuance of an appropriate writ in the nature mandamus for commanding and directing the respondent the Divisional Commissioner, Saran, the District Magistrate, Siwan or the District Programme Officer, Integrated Child Development Scheme, Siwan, to pass a reasoned and speaking order on the representation of the petitioner.

(vi) For issuance of any other appropriate writ/writs, order/orders, direction/directions for which the writ petitioner will be found entitled in the facts and circumstances of the case.”

6. The petitioner has a statutory remedy of appeal before the Appellate Authority. 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 (para 20)*, the present petition is premature. Para 20 reads 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;”

7. Accordingly, the writ petition stands disposed of reserving liberty to the petitioner to prefer appeal before the Appellate Authority. If such appeal is filed by the petitioner before the Appellate Authority, the Appellate Authority is hereby directed to examine the petitioner’s appeal while hearing the petitioner and 9th respondent, namely, Sangeeta Kumari.

8. The above exercise shall be completed within a period of three months from the date of receipt of a copy of this order.

9. The writ petition stands disposed of.

(P. B. Bajanthri, J)

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AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	03.02.2022
Transmission Date	NA

