

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3918 of 2021

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Gita Devi wife of Krishna Manjhi @ Karoon Manjhi resident of Village -
Khaira Buzurg (Khaira Kala), Hathiya Dih, Police Station- Akbarpur, District-
Nawada.

... .. Petitioner/s

Versus

1. State of Bihar through Principal Secretary, Social Welfare Department,
Bihar, Patna.
2. The District Magistrate, Nawada.
3. The District Program Officer, Nawada.
4. The Child Development Project Officer, Akbarpur Block, Nawada.
5. The Mahila Supervisor, Child Development Project, Akbarpur, Nawada.
6. Sunaina Devi W/o Mahendra Das resident of Village - Khaira Buzurg,
(Khaira Kala), Police Station- Akbarpur, District- Nawada.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Birendra Kumar
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 the respondent Nos. 1
to 5.

3. Issuance of notice to 6th Respondent is dispensed
since no adverse order is passed.

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

(1) For issuance of writ in the nature of mandamus to
directing/commanding the concerned respondent to select the



petitioner/Gita Devi for the post of Anganwari Sahayika for Anganbari Centre No. 246 of Ward No. 14 under Gram Panchayat Panti in place of Sunaina Devi whose candidature has been cancelled vide letter No. 354 dated 10.08.2018 issued by Child Development Project Officer, Akbarpur, Nawada.

And any other relief/reliefs may be granted for which the petitioner may be found entitled in the facts and circumstances of the 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.Zalpur 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-Sunaina 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	

