

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4001 of 2021

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Bachchi Kumari Wife of Ved Prakash Kumar @ Ved Prakash Yadav, Resident of Village-Mission Compound, Ward No.-08, P.S.-Mufassil, District-East Champaran, Bihar.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Social Welfare Department, Bihar, Patna.
2. The Director, Integrated Child Development Services, Patna.
3. The Collector-cum-District Magistrate, East Champaran, Motihari.
4. The District Programme Officer, East Champaran, Motihari.
5. The Child Development Programme Officer, Motihari (Rural), East Champaran.
6. Meena Kumari, Wife of Vipin Patel, Resident of Village-Mission Compound, Ward No.-08, P.S.-Mufassil, District-East Champaran, Bihar.
7. Panch-cum-Vice President, Selection Committee, Ward No. 8, Village-Mission Compound, Panchyat-Amar Chatauni, Motihari.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Vikash Kumar Pankaj
For the Respondent/s : Mr.Lalit Kishore (Ag)

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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 and 7.

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

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



“i. To issue Writ of Certiorari or any other appropriate writ order to set aside the order contained in Memo No. 643 dated 17.02.2020 (**Annexure – 5**) passed by Respondent No. 4 in Case No. 30/2018 whereby the said case filed by the Petitioner for setting aside selection of Respondent No. 6 on the post of Anganwadi Sevika in the Anganwadi Center No. 231, Panchayat – Amar Chatauni in Ward No. 8.

(ii) To issue consequential Writ of Certiorari or any other appropriate Writ Order direction directing the Respondents to set aside the Aam Sabha proceeding dated 24.05.2018 (**Annexure – 3**) rejecting the candidature of the Petitioner and selecting Respondent No. 6 on the aforesaid Post as it is in violation of Rule – 7 of the Anganwadi Sevika / Sahiyka Selection Guidelines, 2016

(iii) To issue consequential Writ of Certiorari or any other appropriate Writ order direction directing the Respondents to set aside the selection of Respondent No. 6 holding it illegal.

(iv) To issue Writ of mandamus or any other appropriate Writ order direction directing the Respondents to appoint the Petitioner on the aforesaid post of Anganwadi Sevika in the Anganwadi Centre No. 231, Panchayat – Amar Chatauni in Ward No. 8.”

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 6th Respondent-Meena 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	

