

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.677 of 2021

=====

Gita Pandye Wife of Chandra Mani Pandye Resident of Village- Fulwaria,
P.S.- Paroo, District- Muzaffarpur.

... .. Petitioner/s

Versus

1. The State of Bihar Through the Secretary Child Development Department,
Govt. of Bihar, Patna.
2. The Director I.C.D.S. Patna, Bihar.
3. The District Magistrate Muzaffarpur.
4. The District Child Development Program Officer Muzaffarpur.
5. The Block Development Officer Paroo.
6. The Block Education Statistical Officer Paroo.
7. The Block Child Development Officer Paroo.
8. Kumari Sweety Wife of Shailendra Kumar Resident of Village- Fulwaria,
P.S.- Paroo, District- Muzaffarpur, Pin Code No. 843107.

... .. Respondent/s

=====

Appearance :

For the Petitioner/s : Mr. Nachiketa Jha
For the Respondent/s : Kumari Amrita, GP 3

=====

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

Date : 17-01-2022

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

2. Service of notice to Respondent No. 8 is dispensed
since no adverse order is passed against Respondent No. 8.

3. Counsel for the petitioner is hereby directed to furnish
copy of the petition to the learned counsel for the State.

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



“(i) For issuance of an order/orders, direction/directions, writ, including writ in the nature of certiorari for set aside the illegal appointment of Respondent No. 8 on the post of Anganwari Sevika at Anganwari Centre No. 325, Ward No. 09, in Gram Panchayat Raj Pandeh.

(ii) For issuance of an order/orders, direction/directions, Writ, including Writ in the nature of Mandamus directing the Respondents to appoint the petitioner on the post of Anganwari Sevika at Anganwari Centre No. 325, Ward No. 09, in Gram Panchayat Raj Pandeh.

(iii) Any other relief or reliefs the petitioner may be found to be entitled to in the facts and circumstances of the present case.”

5. The petitioner has not exhausted statutory remedy of appeal and it is against 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** in which it 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. In the light of the aforesaid decision, the present petition is premature.

7. Accordingly, present petition is disposed off, reserving liberty to the petitioner to prefer appeal before the Appellate Authority within a period of eight weeks from the date of receipt of this order. The Appellate Authority is hereby directed to consider petitioner’s appeal while giving ample opportunity of hearing to the petitioner and Respondent No. 8 - Kumari Sweety within a period of four months from the date of petitioner’s appeal.

(P. B. Bajanthri, J)

GAURAV S./-

AFR/NAFR	
CAV DATE	
Uploading Date	26.01.2022
Transmission Date	

