

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2328 of 2021

ARATI KUMARI wife of Pradeep Kumar Sah Resident of Village-
Mohammadpur, Ward No. 07, Block Simari Bakhtiyarpur, District- Saharsa

... .. Petitioner/s

Versus

1. The State of Bihar through the Directorate, Integrated Child Development Services Government of Bihar, patna
2. The Director, Integrated Child Development Services, Government of Bihar, Patna
3. The District Magistrate, Saharsa
4. The Deputy Director, Welfare, Koshi Range, Saharsa
5. The District Programme Officer, Saharsa
6. The Child Development Project Officer, Simari Bakhtiyarpur, District- Saharsa
7. Sinku Kumari Wife of Santosh ram Resident of village- Mohammadpur, Ward No. 07, Block Simari Bakhtiyarpur, District- saharsa

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Satish Kumar Singh
For the Respondent/s : Mr. Gyan Prakash Ojha, GA 7

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

Date : 27-01-2022

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 Respondents.

3. Issuance of notice to 7th Respondent is dispensed since no adverse order is passed.

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

“That this application is being filed for issuance of appropriate writ/writs, order/orders, direction/directions with



regard to quashing of Memo No. 1694 dated 31.12.2019, passed by Respondent District Program Officer, Saharsa, as well as any selection made pursuant to the aforesaid order be cancelled and also for direction to the Respondents to consider the Ward No. 07, Village Mohammadpur, within Block Simari Bakhtiyarpur, District-Saharsa as Extremely Backward Caste dominated area and accordingly the Petitioner may be selected for the post of Anganbari Sevika as she is having highest merit marks.”

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;

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. The Appellate Authority is hereby directed to take note of Section 14 of the Limitation Act for the purpose of condonation of delay in presenting appeal. 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 7th Respondent-Sinku 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	29.01.2022
Transmission Date	

