

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2433 of 2021

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Usha Kumari Wife of Ram Shankar Mahto Resident of Village- Ward No. 4
Kanhauli, P.S. Khajauli, District- Madhubani.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary Social Welfare
Department Govt. of Bihar, Patna.
2. The Director I.C.D.S. Bihar Patna.
3. The District Magistrate cum Collector Madhubani.
4. The District Programme Officer Madhubani.
5. The Child Development Project Officer, Khajauli, Madhubani.
6. Smt. Sarasha Kumari, the female supervisor Kanhauli, P.S. and Block
Khajauli, Madhubani.
7. Smt. Usha Kumari, Ram Pratap Choudhary Ward No. Kanhauli, P.S.
Khajauli, District- Madhubani.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Ravi Prakash, Advocate
For the Respondent/s : Mrs. Kumari Amrita, GP 3

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

Date : 27-01-2022

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

Mrs. Kumari Amrita, learned State Counsel accepts
notice for respondent nos. 1 to 6.

Service of notice to sixth and seventh respondent-Usha
Kumari is dispensed with since no adverse order is passed against
her.

In the instant petition, petitioner has prayed for the
following relief(s):-



“For issuance of an appropriate writ(s), order(s), direction(s) for quashing the order contained in memo no. 1131 dated 12.08.2020 issued by the District Programmed Officer Madhubani whereby and whereunder the Misc. Case No. 85/2019 filed by the petitioner has been dismissed/rejected without considering the facts and rule without applying his own judicial mind and petitioner further prays for direction to the respondents to consider the case of petitioner regarding the selection of Anganbari Sevika in accordance with law and to grant any other relief(s) for which petitioner may found entitled in accordance with law.”

Petitioner without exhausting remedy of appeal before the appellate authority has approached this Court. The matter is squarely covered by the decision of Hon’ble Apex Court in the case of **State of Jammu and Kashmir Vs. R.K. Zalpuri and others** reported in **AIR 2016 Supreme Court 3006** held as under:-

“20. Having stated thus, it is useful to refer to a passage from City and Industrial Development Corporation v. Dosu Aardeshir Bhiwandiwalla and Others, 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 questions 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.”*

Accordingly, the petition stands dismissed reserving liberty to the petitioner to file an appeal before the appellate authority within a period of eight weeks. If such appeal is filed the same shall be considered within a period of four months from the date of receipt of memorandum of appeal to be filed by the petitioner after hearing petitioner and seventh respondent-Usha Kumari.

(P. B. Bajanthri, J)

Vikash/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	
Transmission Date	N/A

