

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16842 of 2021

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Janki Devi Daughter of Shri Bachcha Mahto, Wife of Shri Dharendra Kumar Prasad, Resident of Village - Gohpur Bajrahia, Police Station - G.B. Nagar Tarwara, District - Siwan.

... .. Petitioner/s

Versus

1. The State of Bihar Bihar, Patna.
2. The Additional Chief Secretary - Cum - The Principal Secretary, Social Welfare Department, Government of Bihar, Patna.
3. The Director, I.C.D.S., Social Welfare Department, Government of Bihar, Patna.
4. The Divisional Commissioner, Saran Division at Chapra.
5. The District Magistrate, Saran Division at Chapra.
6. The District Programme Officer, Integrated Child Development Scheme (ICDS), Siwan.
7. The Child Development Project Officer, Maharajganj, District - Siwan.
8. The Lady Supervisor, Maharajganj, District - Siwan.
9. The Ward Member, Ward No. 11, Gram Panchayat Raj Tewtha, Block - Maharajganj, District - Siwan.
10. Mala Kumari, Wife of Vikash Kumar, Resident of Village - Gohpur, P.S. - G.B. Nagar (Tarwara), District - Siwan.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Umesh Kumar Mishra
For the Respondent/s : Md. Raisul Haque, SC-10

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

Date : 12-05-2022

Service of notice to respondent no.10-Mala Kumari stands dispensed, since no adverse order is being passed against her.

Heard learned counsel for the respective parties.

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



“I. For issuance of an appropriate writ in the nature of mandamus for commanding and directing the respondent authorities concerned to select/appoint the petitioner as Aanganwadi Sevika in Ward No. 11, Gram Panchayat Raj Tewtha, Anchal – Maharajganj, District – Siwan by cancelling the selection of private respondent Mala Devi, who has secured her appointment as Aanganwadi Sevka in the aforesaid ward by illegal means, though she is having lesser merit marks than that of the petitioner and in the provisional list prepared for selection of Aanganwadi Sevika for the aforesaid ward, name of petitioner was appearing at Sl. No. 1 but she has not been given the selection / appointment letter but the private respondent Mala Kumari having lesser marks has been selected / appointed as Aanganwadi Sevika in the aforesaid ward.

II. For issuance of an appropriate writ in the nature of prohibition by restraining the private respondent Mala Kumari to work on the post of Aanganwadi Sevika in Ward No. 11, Gram Panchayat Raj Tewtha, Anchal – Maharajganj, District – Siwan, as she has been selected on the basis of power, pairvi and paisa and with connivance of authorities concerned as though she has been placed



below the petitioner in the provisional merit list having lesser merit marks than the petitioner but she has been selected and the petitioner, who is having the higher merit marks has been deprived for her selection.

III. For issuance of an appropriate writ as alternative prayer of the petitioner that the District Programme Officer, Integrated Child Development Scheme (ICDS), Siwan, may kindly be directed to dispose of the representation/appeal of the petitioner by reasoned and speaking order by redressing her genuine grievance of cancellation of selection of Mala Kumari as Aanganwadi Sevika in the Ward No. 11, Gram Panchayat Raj Tewtha, Anchal – Maharajganj, District – Siwan and in her place the petitioner's candidature for her selection as Aanganwadi Sevika in the aforesaid ward may kindly be considered.

IV. For issuance of any other appropriate writ, writs, order/orders, direction/directions for which the writ petitioner will be found entitled in the facts and circumstances of the case.”

Learned counsel for the State submitted that petitioner has rushed to this Court without exhausting the remedies available under the scheme/rules dated 27.05.2019, in



particularly, Rule 11 or Para 11 which provides complaint to be lodged before the CDPO.

If still a party is aggrieved, he has a remedy before the DPO and further he has a remedy before the Divisional Commissioner in the form of revision. Thus, the present petition is premature in the light of the aforesaid statement read with Apex Court decision in the case of ***State of Jammu and Kashmir Vs. R.K. Zalpuri and others reported in AIR 2016 SC 3006***, Paragraph-20, which is held as under:

“20. Having stated thus, it is useful to refer to a passage from City and Industrial Development Corporation Vs. 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”.

Accordingly, the present petition stands disposed of, reserving liberty to the petitioner to exhaust the remedy available against her non-selection and selection of respondent no.10-Mala Kumari. If petitioner invokes such remedy, the concerned authority may expedite the proceedings and pass speaking order.

(P. B. Bajanthri, J)

Ankit/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	17.05.2022
Transmission Date	NA

