

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3234 of 2021

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Nirmala Devi @ Nirmala Kumari Wife of Sunil Kumar, Resident of Ward No.-11, Haripur, P.O.-Beldaur, P.S.-Beldaur, Dist.-Khagaria.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Social Welfare, Govt. of Bihar.Patna.
2. The District Magistrate, Khagaria.
3. The District Program Officer, Khagaria.
4. The Child Development Project Officer, Khagaria.
5. Smt. Smita Wife of Ramesh Kumar Resident of Haripur, P.S. Beldour, District Khagaria, Bihar.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Deep Shikha
For the Respondent/s : Md. Raisul Haque, SC 10

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

Date : 29-01-2022

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 respondent Nos. 1 to 4.

3. Issuance of notice to 5th Respondent is dispensed since no adverse order is passed.

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

“That the petitioner is invoking the writ jurisdiction of this Hon’ble Court for issuance of appropriate writ/writs, order/ orders, direction/directions commanding upon the respondent authorities for the following reliefs:



i. For issuance of writ in the nature of certiorari, quashing the order dated 17.12.19 issued by (Respondent No. 4), (for short impugned order) whereby and whereunder, the Child Development Project Officer, Khagaria respondent no. 4 has been pleased to set aside the appointment of petitioner as Anganbari Sevika from Anganbari Centre No. 218 at Beldaur in Khagaria on the ground that her certificate obtained from Jharkhand State open Schooling, is not recognized.

ii. For any other relief or reliefs for which the petitioners are found entitled in the facts and circumstances of the case.”

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.Zalpur 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;

Underline Emphasized



(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 5th Respondent-Smita. 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	

