

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17591 of 2021

Prabhawati Devi W/o Satish Ray, D/o Shyam Narayan Ray, R/o Village-Roopa Pokhar, P.O. and P.S.-Rajpur, District-Buxar.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. The District Magistrate, Buxar.
3. The District Education Officer, Buxar.
4. The District Programme Officer, Buxar.
5. The Child Development Project Officer (Office) Rajpur, Buxar.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Anil Kumar Mishra, Advocate
For the Respondent/s : Mr. Prashant Pratap (GP2)

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

Date : 11-02-2022

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

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

“Through the present writ application the petitioner seeks indulgence of this Hon'ble High Court for issuance of appropriate writs/orders/directions, or in the nature of certiorari quashing (Annexures 1 & 2) passed by Child Development Project Officer, Rajpur Buxar, letters sent through Office Rajpur vide letter Memo no. 209, dated 31.03.2021, (Annexure-1) and Annexure-2 letter "no." 22 dated 12.01.2021, by which the recommendation for removal from the service and finally removed from the service and direction was given to hand over the document of office and also directed to deposited all the paid amount to her in govt. Account SBI Buxar, IFSC Code SBI No. 000051,



Account no.-338601111140, otherwise FIR will be lodged against her and also to institute certificate proceeding for the recovery of the amount.”

The petitioner has statutory remedy of appeal before the appellate authority. Without exhausting the statutory remedy of appeal writ petition cannot be entertained in the light of Hon’ble Apex Court decision 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 present petition stands dismissed as premature reserving liberty to the petitioner to approach appellate authority in filing an appeal.

The appellate authority is hereby directed to take note of Section 14 of the Limitation Act, 1963 for the purpose of condonation of delay in presenting memorandum of appeal. If such appeal is filed the same shall be considered within a period of four months from the date of receipt of appeal after giving due opportunity of hearing to such of those persons who are likely to be affected.

Insofar as recovery is concerned, the appellate authority is hereby directed to examine whether the petitioner is entitled to monetary benefit or not? If the petitioner is entitled to arrears of amount in that event it shall be extended to the petitioner. If the petitioner is not entitled necessary order shall be passed and communicated to the petitioner. The above exercise shall be completed within a period of four months from the date of receipt of this order.

Vikash/-

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

(P. B. Bajanthri, J)

