

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3401 of 2021

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Sitara Begum Wife of Md. Mansuri Resident of Village- Nagartola, Ward No.-
12, Mirzafari, P.S.- Kharik Bazar, District- Bhagalpur

... .. Petitioner/s

Versus

1. The State of Bihar Through the Additional Chief Secretary, Social Welfare Department, Government of Bihar, Patna
2. The District Magistrate, Bhagalpur Bhagalpur
3. The Director, Integrated Child Development Services, Government of Bihar Patna
4. The District Program Officer, Bhagalpur Bhagalpur
5. The Deputy Development Commissioner, Bhagalpur Bhagalpur
6. The Child Development Project Officer, Block- Kharik Bhagalpur
7. Kalpana Kumari Wife of Pankaj Sharma Resident of Village - Nagartola, Ward No. 11, Mirzafari, P.S.- Kharik Bazar, District- Bhagalpur.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.

For the Respondent/s : Mr. Lalit Kishore (Ag)

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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. None appears for the petitioner.

3. State counsel accept notice for respondent nos. 1 to 6. Service of notice to Respondent No. 7- Kalpana Kumari is dispensed since no adverse order is passed against her.

4. In the instant petition, petitioner has sought for following reliefs:

“1. That the petitioner seeks indulgence of this Hon’ble High Court for the



following relief/s:

A. A writ in the nature of CERTIORARI or any other appropriate writ/s, order/s set-aside or quashing

i. The quashing of the order dated 29.08.2020 as contained in Memo No. 95 passed by the District Program Officer, Bhagalpur, whereby and where under, the Child Development Project Officer, Block-Kharik, Bhagalpur, upon conducting biased, one-sided and partial enquiry was pleased to cancel the appointment of the Petitioner on the post of Aanganbadi Sevika/ Sahayika with immediate effect while declaring Kalpana Kumari (Respondent No. 7) as the eligible candidate for the post, without considering the reply to the show-cause submitted by the petitioner.

B. A writ in the nature of MANDAMUS or any other appropriate writ/s, order/s directing and commanding the Respondent Authorities:-

i. To reinstate the petitioner to the post of Aanganbadi Sevika/ Sahayika for Usmanpur Panchayat with the full honour and dignity and to grant her the remuneration which she is entitled to.

ii. To hold that the impugned order dated 29.08.2020 as contained in Memo No. 95 is bad in law and not maintainable for the reason that it is partial, biased and one-sided and it grossly violates the principles of natural justice as the same has been passed without considering the reply to the show-cause as filed by the petitioner.

C. To any other relief/s to which the petitioner is found entitled to.”



5. The petitioner without exhausting statutory remedy of appeal presented this petition.

6. Therefore, the present petition is pre-mature to entertain in the light of Apex Court decision in the case of State of *Jammu and Kashmir V. R.K. Zalpuri* reported in *AIR 2016 SC 3006* at para 20 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.”

7. Accordingly, the present petition stands disposed of reserving liberty to the petitioner 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 filed, the appellate authority is hereby directed to provide opportunity of hearing to petitioner and Respondent no. 7- Kalpana Kumari and decide the petitioner’s appeal within a period of four months from the date of receipt of aforesaid appeal.

(P. B. Bajanthri, J)

rakhi/-

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	

