

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3544 of 2021

Baby Kumari W/o Manoj Sahani resident of Village - Bhagwanpur, Dadhiya Ward no. 13, Panchayat Raj Karnpur South, P.O. and P.S. - Bochahan, District-Muzaffarpur.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Social Welfare Department, Government of Bihar, Patna.
2. The Director, I.C.D.S. Directorate, Social Welfare Department, Bihar, Patna.
3. The Commissioner, Tirhut Division, Muzaffarpur.
4. The District Magistrate, Muzaffarpur.
5. The District Magistrate, Muzaffarpur.
6. The Child Development Project Officer, Bochaha, Muzaffarpur.
7. Poonam Kumari W/o Shambhu Kumar resident of Village - Bhagwanpur, Dadhiya Ward no. 13 Panchayat Raj Karnpur Soutyh, P.O. and P.S. - Bochahan, District- Muzaffarpur.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Bipin Kumar
For the Respondent/s : Mr. Prashant Pratap, GP-2

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

Date : 31-01-2022

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

2. State counsel accept notice for Respondent Nos. 1 to 6. Service of notice to 7th respondent is dispensed since no order is passed in the present petition.

3. In the instant petition, petitioner has prayed for following reliefs:

“1. That this is an application for issuance of an appropriate writ or writs, order or direction to the respondent authorities to



cancelled the engagement of the respondent no. 7 namely Poonam Kumari, W/o Sri Shambhu Kumar for the post of Anganbari Sevika of Ward no. 13 under Gram Panchayat Raj, Karanpur South, taking to consideration that the entire exercise by concerned authority are under the wrong premises, without application of mind and also ignoring the provisions under Kandika '7' of ICDS guideline 2019 which is binding to all concerned for all purposes and after cancellation of the engagement of respondent no. 7 appoint the petitioner to the said post by issuing an appropriate order or direction."

4. As per order of this Hon'ble Court passed in CWJC No. 21887 of 2019, petitioner submitted representation before the Director, ICDS, Directorate, Social Welfare Department, Bihar, Patna which was rejected. Petitioner has statutory remedy of appeal before the appellate authority in the light of Apex Court's decision rendered in the case 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.”

5. Petitioner is at liberty to prefer an appeal before the appellate authority within a period of eight weeks from the date of receipt of this order. On receipt of petitioner's memorandum of appeal, the appellate authority is hereby directed to decide the same within a period of three months from the date of receipt of petitioner's memorandum of appeal after giving due opportunity of hearing to the petitioner and 7th respondent- Poonam Kumari.

6. With the aforesaid observations, the instant petition stands disposed of.

(P. B. Bajanthri, J)

rakhi/-

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	

