

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3934 of 2021

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Manoj Kumar S/o Late Bharat Mandal Resident of Village - Bharthua Tola,
P.S. - Aurai, District- Muzaffarpur.

... .. Petitioner/s

Versus

1. The State of Bihar, Bihar.
2. The Principal Secretary, Revenue Department Government of Bihar, Patna.
3. The Commissioner, Tirhut Commissionery Muzaffarpur, District-
Muzaffarpur.
4. The District Magistrate, Muzaffarpur.
5. The Sub-Divisional Officer Magistrate, Muzaffarpur.
6. The Deputy Collector, District Establishment, Collectorate Muzaffarpur.
7. The Circle Officer, Bandara Circle, District- Muzaffarpur.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Ranjan Kumar Srivastava
For the Respondent/s : Mr. Raj Kishore Roy, GP 18

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

Date : 01-02-2022

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

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

“(A) To issue an appropriate writ/writs, order/s,
direction/s in the nature of Certiorari for quashing the Order
dated 19.08.2020 vide Memo no. 1190/Est passed by the
respondent no. 4, i.e., the District Magistrate, Muzaffarpur in
which he ordered for the dismissal of the petitioner from his
services without giving any opportunity of being heard.

(B) To issue an appropriate writ/writs, order/s,
direction/s in the nature of Mandamus for
commanding/directing the respondents to re-instate the



petitioner back on the post of Clerk along with consequential benefits.

(C) Pass such other Order/Orders as your Lordships may deem fit and proper.”

3. Petitioner without exhausting statutory remedy of appeal against the order dated 19.08.2020 passed by the District Magistrate, Muzaffarpur has rushed to this Court. Thus, the present petition is premature in the light of Apex Court decision in the case of ***State of Jammu and Kashmir V/s. 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 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;

(e) Ex facie barred by any laws of limitation;

Underline Emphasized



(f) Grant of relief is against public policy or barred by any valid law; and host of other factors”

4. Reserving liberty to the petitioner to prefer appeal before the Appellate Authority. If such appeal is filed, the same shall be considered within a period of three months from the date of receipt of such appeal.

5. With the above observations, writ petition stands disposed off.

(P. B. Bajanthri, J)

GAURAV S./-

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	

