

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5890 of 2023

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Pushpa Kumari D/o- Ramlalit Paswan R/o- Village- Fatehpur- Shahbaz (Ward No.- 13), P.S.- Raghapur, District- Vaishali at presently W/o- Suddu Kumar, R/o- Village- Bans Ke Taal Chauraha, P.S.- Khushrupur, District- Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principle Secretary, Department of Social Welfare, Government of Bihar, Patna.
2. The Director, I.C.D.S., Government of Bihar, Patna.
3. The Deputy Director, I.C.D.S., Government of Bihar, Patna.
4. The District Magistrate, Patna.
5. The District Programme Officer, I.C.D.S. at Vikash Bhawan, Patna.
6. The Sub-Divisional Magistrate, Patna City, Patna.
7. The Child Development Project Officer, Khushrupur, District- Patna.
8. Mamta Kumari, W/o- Ravi Kumar R/o- Village- Bans Ke Taal (Safipur), Ward No.- 7, (Mosimpur Panchayat), P.S.- Khushrupur, District- Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Onkar Nath, Advocate.
For the Respondent/s : Mr.S.K. Mandal (Sc3)

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CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL ORDER

3 18-11-2024 Heard learned counsel appearing on behalf of the

petitioner and learned counsel for the State.

2. The petitioner, in paragraph no. 1 of the present writ petition, has, *inter alia*, sought, following relief(s), which is reproduced hereinafter:-

“(i) Commanding the respondent authorities particularly the Respondent No.3 & 5 to look into appointment processes for the post of Anganwari Sewika at Ward No.1 of Mosimpur Panchayat of Khushrupur Block in Patna District.

(ii) Further commanding the respondent authorities particularly the Respondent no.7 to bring on record the appointment letter dt.-09.09.2022 of Respondent no.8 and set aside the same in view of the facts and circumstances enumerated here-in-below.



(iii) Grant of any other incidental or consequential relief/reliefs for which the petitioner can be entitled for.”

3. Learned counsel appearing on behalf of the petitioner submits that for redressal of the grievance as prayed for in Para-1 of the writ petition, the petitioner seeks to avail appropriate remedy by filing suit before the competent civil court having jurisdiction in light of the law laid down by the Apex Court in case of ***State of Karnataka & Ors. vs. Ameerbi & Ors.*** reported in ***(2007) 11 SCC 681***.

4. The Apex Court in the case of ***Ameerbi (supra)*** has held that there is no straitjacket formula that all the employees, who fall under the purview of Article 12 of the Constitution would be government employees. Only because the State controls the Integrated Child Development Services (I.C.D.S.) Programme, its employees cannot take shelter under Article-311 of the Constitution that in any manner, the selection process has not taken place in accordance with law.

5. It is further made clear that in the State of Bihar, the guidelines in respect of 'Anganwari Sevika and Sahaikaa', cannot be said to have been enacted in accordance with Article-309 of the Constitution and the procedure followed as per the requirement of Article-311 of the Constitution necessitates in case of the 'Anganwari Sevika'.



6. Considering the submission made on behalf of the petitioner, the present writ petition stands disposed of with liberty to the petitioner to file suit before the competent civil court having jurisdiction.

(Purnendu Singh, J)

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