

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5963 of 2023

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Phul Kumari Sharma Wife of Shri Sanjiv Kumar, Resident of Mohala-Balapemu Dargaha Tola, P.S.- B. Kothi, District- Purnea.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secreter, Social Welfare Department, Government of Bihar.
2. The Divisional Commissioner, Purnea Division, Purnea.
3. The Collector, Purnea.
4. The D.P.O., I.C.D.S., Purnea.
5. The Child Development Programme Officer, B. Kothi, Purnea.
6. Smt. Pinki Kumari Wife of Papu Kumar, Resident of Village- Raghubansh Nagar, Bharna Tola, P.S.- B. Kothi, Purnea.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Bijendra Kumar Singh, Advocate Mr. Amrendra Kumar Singh, Advocate
For the State	:	Mrs. Kumari Amrita (GP-3)

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CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL ORDER

3 19-11-2024 Heard Mr. Bijendra Kumar Singh along with Mr. Amrendra Kumar Singh, learned counsel appearing on behalf of the petitioner and Mrs. Kumari Amrita, 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) For issuance of writ in nature of certioraris quashing the order dated 15.11.2022 passed in Service Appeal No. 09/2020 by the Divisional Commissioner, Purnea, whereby the Appeal filed by Appellant was disposed on the basis of statement made by the counsel for the Appellant.



II) For issuance of writ in nature of certioraris, quashing the order issued by the District Collector/Officer, Purnea in Service Appeal No. 09/2019 and communicated to C.D.P.O., B. Kothi and D.P.O., Purnea through Memo No. 4826 dated 24.12.19 whereby rejected the order passed by the D.P.O , Purnea dated 18-03-2019 and allowed the Appeal of Respondent no. 6.

(III) For issuance of writ in nature of mandamus commanding the respondents to appoint the petitioner on the post of Aganwari Sewika under Wrd No. 3 Village- Bela Bemu Panchayat-Gouripur, Project-B. Kothi.

(IV) For issuance of writ in nature of mandamus commanding the Respondents to pay the salary of the Appellant-petitioner from the date of her initial selection as per order dated 18.03.2019.

(V) For any other such order/orders which Appellant/Petitioner is entitled too.”

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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