

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7420 of 2021

Sarita Kumari @ Sarita Devi W/o Rajdeo Sah R/o Village- Bhutahi, Ward no. 12, Centre No. 219, Block and P.s.- Sonbarsa, District- Sitamarhi, Bihar

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Social Welfare Department, Secretariat, Patna
2. The District Magistrate, District- Sitamarhi
3. The District Programme Officer (Establishment) Sitamarhi
4. The Child Development Project Officer, Block- Sonbarsa, Sitamarhi
5. The Selection Committee through its Chairman, constituted for selection of the Anganwadi Sevika, Ward no. 12, Block and P.s.- Sonbarsa, District- Sitamarhi
6. Pramila devi W/o Chuman Lal Prasad R/o Village- Bhutahi, Ward no. 12, Panchayat- Dighi, Block and P.s.- Sonbarsa, District- Sitamarhi

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Amit Narayan, Advocate
For the Respondent/s : Mr. Lalit Kishore (AG)

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

Date : 10-03-2022

Heard learned counsel for the parties.

Learned counsel for the State accepts notice for respondent nos. 1 to 5.

Service of notice to respondent no.6-Pramila Devi stands dispensed as no adverse order has been passed against her in the present petition.

In the present petition, petitioner has prayed for the following relief/reliefs:



“By this application, the petitioner humbly seeks to invoke the writ jurisdiction of this Hon’ble Court for, on amongst others, for the following reliefs:

i. For issuance of a writ of certiorari, or any other writ/writs, order/orders, direction/directions, quashing the decision of the Selection Committee (Respondent No.5), dated 13.9.2018 (Annexure-3), whereby and whereunder, respondent no.6, at proposal no. 7 has been selected for the post of Anganwari Sevika of Ward No.12, Centre No. 219, Bhutahi Panchayat, Block Sonbarsa in the district of Sitamarhi;

ii. For issuance of a writ of certiorari, or any other writ/writs, order/orders, direction/directions quashing the selection letter issued under the signature of Lady Supervisor, Sonbarsa, which has counter-signed by the Chairman of Selection Committee, dated 14.9.2018 (Annexure-5) issued in favour of Respondent No.6, on



being selected as Anganwari Sevika of Ward No. 12, Village Bhutahi, PS, Sonbarsa, District-Sitamarhi;

iii. For issuance of a writ of mandamus or any other writ/writs, order/orders, direction/directions, directing the respondents, particularly, respondent no. 5 to select the petitioner as Anganwari Sevika of ward no. 12, Centre No 219, Bhutahi Panchayat, District-Sitamarhi; and

iv. For grant of any other relief or reliefs to which the petitioner may be found entitled in the facts and circumstances of the case.”

The petitioner without exhausting statutory remedy of appeal presented this petition and petition is not maintainable in view of the Apex Court decision in the case of ***State of Jammu and Kashmir Vs. 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 Vs. Dosu



Aardeshir Bhiwandiwala 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;

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



of other factors”.

In view of the aforesaid decision, the present petition is premature, therefore, the petitioner is at liberty to prefer appeal before Respondent No.2-District Magistrate, District- Sitamarhi (Appellate Authority) within a period of eight weeks from the date of receipt of this order. If such appeal is preferred by the petitioner, the appellate authority is hereby directed to decide the petitioner's appeal after giving ample opportunity of hearing to the petitioner as well as respondent no. 6-Pramila Devi. Such exercise shall be completed within a period of four months from the date of receipt of the appeal.

Accordingly, writ petition stands disposed of.

(P. B. Bajanthri, J)

Ankit/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	12.03.2022
Transmission Date	NA

