

## IN THE HIGH COURT OF JUDICATURE AT PATNA

### Civil Writ Jurisdiction Case No.1163 of 2017

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Kanchan Kumari, daughter of late Ishwari Sharma and Wife of Pramod Kumar Tarun, resident of Muhalla- Bari Pahari, P.S. Agamkuan, District- Patna.

.... .... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Education, Government of Bihar, Patna.
2. The Principal Secretary, Department of Education, Government of Bihar, Patna.
3. The Director, Secondary Education, Bihar, Patna.
4. The District Board, Jehanabad, through its Chief Executive Officer.
5. Deputy Development Commissioner-cum-Chief Executive Officer, District Board, Jehanabad.
6. District Programme Officer, Jehanabad.
7. The District Board, Patna, through its Chief Executive Officer.
8. Deputy Development Commissioner-cum-Chief Executive Officer, District Board, Patna.
9. Headmaster, Non-Government/Project High School, GPV Krishnashram, Sikaria, Jehanabad.
10. Headmaster, High School, Berhna, Barh, District- Patna.

.... .... Respondent/s

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#### Appearance :

For the Petitioner/s : Mr. Sanjay Kumar, Advocate  
Mr. Jay Prakash Singh, Advocate

For the Respondent/s : Mr. Umesh Narayan Dubey, AC to GP27

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**CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY**

**ORAL JUDGMENT**

**Date: 01-12-2017**

Heard learned counsel for the petitioner and the State.

2. Mr. Sanjay Kumar appearing on behalf of the petitioner submits that earlier the petitioner has approached the District Teachers Employment Appellate Authority (hereinafter referred to as 'the Appellate Authority'), but at that point of time the Appellate Authority refused to accept the same on the ground that the termination order has been passed in an enquiry on the basis of order of the Court. Counsel for the petitioner submits that the Appellate



Authority was required to enter into the merit of the case and decide the same one way or the other and cannot decline to entertain the appeal filed by the petitioner. The statutory authority is obliged to examine the correctness and otherwise of the decision of the termination. Under Rule 15 of the Bihar District Board Madhyamik Teachers Avam Uchchatar Shikshak (Niyojan Awam Sewa Sart) Niyamawali, 2006, as amended from time to time, the Appellate Authority is vested with the jurisdiction to decide the dispute with regard to termination and as such the appellate authority has committed error in refusing to entertain the appeal filed by the petitioner.

3. Counsel for the State submits that under the statutory rule, the jurisdiction is vested with the Appellate Authority to examine the correctness and otherwise of the decision of termination.

4. In view of the above, the writ application is disposed of with a direction to the petitioner to approach the Appellate Authority, Jehanabad, who shall be under legal obligation to examine the correctness and otherwise of the decision of termination of the petitioner and pass appropriate order in accordance with law after hearing all concerned. In case, the petitioner files appropriate petition before the Appellate Authority, Jehanabad within a period of four



weeks from today along with a copy of this order, the Appellate Authority will examine the case of the petitioner and pass appropriate order on its own merit and will not decline to enter into the matter on the ground that the order of termination of the petitioner has been passed pursuant to an enquiry under the order of the Court.

5. With the aforesaid, this application stands disposed of.

**(Anil Kumar Upadhyay, J)**

Uday/-

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| AFR/NAFR          | NAFR       |
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