

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.20958 of 2013

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Kalicharan Das S/o Sri Surendra Nath Das Resident Of Village Abadpur, P.S.
Abadpur, District Katihar.

... .. Petitioner/s

Versus

1. The State Of Bihar Through Its Principal Secretary Department Of Human Resource Development, Department Government Of Bihar, Patna.
2. The Secretary, Human Resources Development Department, Government Of Bihar, Patna.
3. The Director Primary Education, Government Of Bihar, Patna.
4. The District Teacher Employment Appellate Authority, Katihar.
5. The District Education Officer, Katihar.
6. The Block Development Officer, Barsoi, District Katihar.
7. The Block Education Officer, Barsoi, District Katihar.
8. The Mukhiya Gram Panchayat Shivanandpur, Barsoi, Katihar.
9. The Panchayat Secretary, Gram Panchayat Shivanandpur, Barsoi, Katihar.
10. Saurabh Kumar S/O Sri Ram Lal Ray R/O Village Rampur, P.S. Mufasil Kabhar, District Katihar.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Onkar Kumar, Advocate Mr. Alok Kumar, Advocate Md. Helal Ahmad, Advocate
For the Respondent/s	:	Md. Anwar Karim, Advocate

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL JUDGMENT

Date : 13-07-2018

Heard learned counsel for the petitioner and the
counsel appearing on behalf of the State as well as the counsel
for the private respondent.

2. The petitioner is aggrieved by the order passed in
Appeal Case No. 81 of 2009 dated 23.6.2009 and the order
rejecting the review dated 3.1.2010.

3. Learned counsel appearing on behalf of the
petitioner submits that petitioner was not heard while decision



adverse to the interest of petitioner was passed by the District Teachers Employment Appellate Authority. On petition for review, the Tribunal declined to entertain his application saying that Tribunal has no power to review.

4. Learned counsel appearing on behalf of the private respondent submits that petitioner has remedy by way of appeal before the State Appellate Authority and as such this court should not interfere with the order of District Teachers Employment Appellate Authority. The alternative remedy is ordinarily a bar but it does not oust the jurisdiction of the Court. These are self imposed restriction and it is well settled in case where the order of Quasi Judicial Authority or Tribunal is in violation of principle of natural justice then alternative remedy is not a bar in entertaining the writ petition under Article 226 of the Constitution. The Constitution Bench of the Apex Court in the case of **State of UP vs. Md. Nooh AIR 1958 SC 86** has held out that alternative remedy is no bar in three exceptional circumstance, firstly where the order is totally without jurisdiction, secondly when the order is in violation of principle of natural justice and thirdly when there is breach of fundamental rights.

5. The case of the petitioner falls in the category of



violation of principle of natural justice and as such decision of the Tribunal is amenable to appeal is not a ground to throw the writ petition on the ground of alternative remedy. The law laid down by the Apex Court is still holding the field and it has reiterated by the Apex Court on numerous occasions.

6. Considering the aforesaid, the court overrules the preliminary objection raised on behalf of the private respondent. Adverting to the issue raised in the present writ application, once the court has arrived at the finding that the order of the Tribunal is in violation of principle of natural justice, the order cannot sustain and it is accordingly quashed as no order visiting evil and civil consequence can sustain against any person without compliance of principle of natural justice. More so, when the principle of natural justice is violated in exercise of adjudicatory power like the District Teachers Employment Appellate Authority.

7. Accordingly, the order contained in Annexure-1 dated 23.6.2009 and the order dated 3.1.2010 contained in Annexure-4 are quashed. The writ petition is allowed.

8. The matter is remitted back to the District Teachers Employment Appellate Authority to hear the matter afresh after hearing the petitioner and respondents.



9. Final decision in this regard may be taken by the District Teachers Employment Appellate Authority within a maximum period of four months from the date of receipt/production of a copy of this order.

10. With the aforesaid, the writ petition is allowed to the extent indicated above.

(Anil Kumar Upadhyay, J)

Ravi/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	20.07.2018
Transmission Date	

