

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.12079 of 2016**

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1. Vijay Kumar Ray son of Khadak Mohan Ray, At Sitagachh, Post office- Sameshwar Hat, District- Kishanganj.
  2. Shankar Kumar Das, Son of Bhupendra Prasad Das, At Devottar Pirania, Post office- Sameshwar Hat, District- Kishanganj.
  3. Priyanka Devi, Wife of Dileep Kumar Harijan, At Marwa Tola, Lakhoria, Post Office- Bara Istambarar, District- Araria.

... .. Petitioner/s

Versus

1. The State of Bihar
2. The Principal Secretary, Education Department, Government of Bihar, Patna.
3. The District Magistrate, Araria.
4. The District Teacher Employment Appellate Authority, Through its Chairman.
5. The Sub Divisional Officer, Araria.
6. The District Education Officer, Araria.
7. The District Programme officer Establishment, Araria.
8. The Block Development Officer, Prakhand Jokihat, District- Araria.
9. The Panchayat Secretary, Gram Panchayat Raj, Prakhand- Jokihat, District- Araria.
10. The Panchayat Secretary Gram Panchayat Raj, Istambarar, Prakhand- Jokihat, District- Araria.
11. The Mukhiya Gram Panchayat Raj, Istambarar Prakhand- Jokihat, District- Araria.
12. Bakeshwar Manjhi, Son of Kalanand Manjhi. Village Post Office- Bara Istambarar, Police Station- Jokihat, District- Araria.
13. Jitendra Ray, Son of Nunu Lal Manjhi, Village Post office- Bara Istambarar, Police Station- Jokihat, District- Araria.
14. Neelam Kumari, Wife of Shiva Nand Rajak, Resident of Village- Kajleta, Post office- Bara Istambarar, Police Station- Jokihat, District- Araria.

... .. Respondent/s

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**Appearance :**

For the Petitioner/s : Mr.Rama Kant Singh  
For the Respondent/s : Mr. Awanish Nandan Sinha, GP-21

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**CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH**  
**CAV JUDGMENT**

**Date: 14-08-2020**



The present petition has been filed for quashing the order passed by the District Teachers Employment Appellate Authority, Araria dated 01.07.2016 in Case No. 3 of 2016, whereby and whereunder the services of the petitioners on the post of Panchayat Teachers have been terminated. Consequently, it is prayed that the respondents be directed to reinstate the petitioners with all consequential benefits.

The brief facts of the case according to the petitioners are that pursuant to coming into force of the Bihar Panchayat Primary Teacher (Panchayat & Service Conditions) Rules, 2006 (herein after referred to as the "Rules, 2006"), an advertisement was published for appointment of Panchayat Teachers in the Primary (Middle School) in the State of Bihar. Accordingly, applications were also invited from the eligible candidates for Gram Panchayat Istambarar in the Block Jokihat, District-Araria. The petitioners, being eligible and possessing intermediate qualification had also applied on 29.08.2006 for being appointed on the post of Panchayat Teacher in the aforesaid Gram Panchayat Istambarar. It is the case of the petitioners that large scale irregularities were committed at the panchayat level and only the favorite applicants were invited for counseling, no reservation policy was followed and the



candidates having more marks and better qualifications like the petitioners were not called for the purposes of counseling. In fact the candidates having only Madhyama degree were appointed on the post of Panchayat Teachers and a total number of 22 Panchayat Teachers were granted appointed in the aforesaid panchayat. Some of the candidates, who were not called for counseling had filed a case bearing Case No. 7 of 2009 before the District Teachers Employment Appellate Authority, Araria, challenging the illegal appointment of the aforesaid 22 Panchayat Teachers. The said case was filed by one Mahboob Alam and others and the illegal appointees were also made parties to the said case whereafter notice was issued to them and after due service of notice upon them, the said successful candidates had appeared before the appellate authority and placed their defence. The District Teachers Employment Appellate Authority, Araria, had then passed the final order on 24.06.2009, directing for terminating the services of the aforesaid 22 Panchayat Teachers and the respondents were further directed to constitute a fresh panel within 45 days and after completion of the requisite process of counseling, they were directed to make fresh appointments, while granting liberty to the aforesaid 22 terminated teachers to participate in



the fresh appointment process and counseling. Out of the aforesaid 22 terminated Panchayat Teachers, one Jitendra Ram and some others had challenged the aforesaid order dated 24.06.2009 passed by the District Teachers Employment Appellate Authority, Araria, by filing a writ petition before this Court bearing CWJC No. 7640 of 2009. This Court had issued notices to the respondents and in the meantime the operation of the aforesaid order dated 24.06.2009 was stayed, hence the aforesaid 22 terminated Panchayat Teachers including the respondents no. 12 to 14 herein had continued to work on the post of Panchayat Teachers. Ultimately, this Hon'ble Court by a judgment dated 23.04.2012 had dismissed the aforesaid writ petition bearing CWJC No. 7640 of 2009. The aforesaid 22 terminated Panchayat Teachers including the respondents no. 12 to 14 herein had then challenged the aforesaid order dated 23.04.2012, by filing an appeal bearing LPA No. 1040 of 2012 and the learned Division Bench of this Court by a judgment dated 01.08.2012 had dismissed the said appeal. The said judgment passed by the learned Division Bench of this Court dated 01.08.2012 was then challenged before the Hon'ble Supreme Court by filing a Special Leave Petition bearing SLP (C) No. 27772-27773 of 2012 and the Hon'ble Apex Court, by



an order dated 05.11.2012, had passed an interim Order to the following effect:-

*“We direct that if any selections are made in the meantime, the same shall abide by the final result in the main petition.”*

It is the case of the petitioners that since no order of stay was granted by the Hon’ble Apex Court and it was only directed that in case any selections were made during the pendency of the Special Leave Petition, the same would be subject to the final outcome of the case pending before the Hon’ble Apex Court, the aforesaid Gram Panchayat had published a notice dated 07.11.2012 inviting candidates to appear in the re-counseling to be held on 10.11.2012. Accordingly, re-counseling was held qua all the applicants totaling to 52 in all, including the petitioners herein as also the respondents nos. 12 & 13 herein and then a merit list was prepared after following the due process and following the reservation policy etc. Thereafter, 22 Panchayat Teachers including the petitioners herein were selected and appointed as Panchayat Teachers vide office order contained in Memo No. 18 dated 25.02.2013 and vide Memo No. 23 dated 16.04.2013. Accordingly, the petitioners had joined their respective schools on 19.04.2013, 13.03.2013 and



26.02.2013 respectively and had also started working on the post of Panchayat Teachers, whereafter they have been continuously working to the satisfaction of all concerned till date. Nonetheless, the respondents no. 12 to 14 herein had filed a case bearing Case No. 3 of 2016 before the District Teachers Employment Appellate Authority, Araria, challenging the aforesaid selections and appointment of the petitioners, only on the ground that despite the interim order dated 05.11.2012 passed by the Hon'ble Apex Court, the petitioners have been appointed on the post of Panchayat Teachers illegally. In the said appeal the petitioners had also appeared and filed their reply stating therein that there was no stay order passed by the Hon'ble Apex Court, hence there was no bar in making fresh appointments. However, the District Teachers Employment Appellate Authority, Araria, by an order dated 30.06.2016 has allowed the aforesaid case bearing Case No. 3 of 2016 and the services of the petitioners have been terminated as also a direction has been issued to make fresh appointments within 30 days.

It is apparent from the records that the aforesaid Special Leave Petition bearing SLP (C) No. 27772-27773 of 2012 and other similar SLPs. i.e. SLP (C) No. 17507 of 2012, SLP No.



18632 of 2012, SLP No. 18652 of 2012 and SLP No. 18767 of 2012 have been dismissed by the Hon'ble Apex Court by an order dated 13.08.2015.

The learned senior counsel for the petitioners has submitted that the impugned order dated 30.06.2016, as contained in Memo No. 325 dated 01.07.2016, passed by the District Teachers Employment Appellate Authority, Araria is illegal and perverse, hence is fit to be set aside. The learned senior counsel for the petitioners has further submitted that the said Appellate Authority has mis-interpreted the interim order passed by the Hon'ble Apex Court dated 05.11.2012 and has miscomprehended that the fresh appointment process pertaining to the aforesaid 22 Panchayat Teachers has been stayed whereas the fact is that the Hon'ble Apex Court has only observed that in case any selections are made during the pendency of the Special Leave Petition, the same shall abide by the final result in the main petition. Thus, it is submitted that since the order dated 24.06.2009, passed by the District Teachers Employment Appellate Authority, Araria, allowing the case filed by one Mahboob Alam and others whereby and whereunder the appointment of 22 Panchayat Teachers were cancelled and direction was issued to prepare fresh merit list, hold re-



counseling and issue fresh appointment letters, has been upheld by the learned Single Judge of this Court by a judgment dated 23.04.2012 passed in CWJC No. 7640 of 2009 as also by the learned Division Bench of this Court by an order dated 01.08.2012 passed in LPA No. 1040 of 2012, which though was challenged before the Hon'ble Apex Court however, no interim order of stay was granted as far as the aforesaid order dated 24.06.2009, passed by the District Teachers Employment Appellate Authority, Araria, is concerned, no illegality can be said to have been committed by the panchayat in question as far as issuance of fresh notice dated 07.11.2012, holding re-counseling and issuance of fresh appointment letters to 22 candidates are concerned. Thus it is submitted that the Order dated 30.06.2016, passed by the District Teachers Employment Appellate Authority, Araria is outrightly illegal, perverse and has been passed without any application of mind, therefore, the same is fit to be set aside.

Per contra, the learned counsel appearing for the State, by referring to the counter affidavit filed on behalf of the respondents no. 6 & 7, has submitted that the Hon'ble Apex Court by an order dated 13.08.2015 has dismissed the aforesaid Special leave petition, preferred by the unsuccessful candidates,



however, it is submitted that on account of the interim order passed by the Hon'ble Apex Court dated 05.11.2012, the *Niyojan Samiti* ought not to have made fresh appointments on the post of Panchayat Teachers. It appears that a counter affidavit has also been filed on behalf of the respondent nos. 3 & 8 wherein it has been stated that though the Special Leave Petition has been dismissed by the Hon'ble Apex Court but the employment unit ought to have adhered to the interim order dated 05.11.2012 passed by the Hon'ble Apex Court. A counter affidavit has also been filed on behalf of the respondent no. 10, the Panchayat Secretary of the Panchayat in question, wherein it has been submitted that pursuant to the advertisement issued in the year 2006, 22 Panchayat Teachers were appointed including the respondent nos. 12 to 14 and as far as the respondent nos. 12 to 14 are concerned, they were provided appointment on the basis of Madhyama certificate and after they had joined as Panchayat Teachers, they have obtained the requisite qualification subsequently by enhancing their academic status. However, in the meantime, a case was filed by one Md. Mahboob Alam and others before the Appellate Authority, Araria and the Appellate Authority, Araria by an order dated 24.06.2009 passed in Appeal Case No. 7 of 2008, had cancelled



the appointment of all the 22 Panchayat Teachers and had directed to initiate fresh appointment process, whereafter the said order dated 24.06.2009 was challenged before the Hon'ble High Court in CWJC No.7649 of 2009, however, the said writ petition was dismissed and the appeal filed against the same bearing LPA No. 1040 of 2012 has also been dismissed. It is stated that the petitioners herein have been provided appointment pursuant to the order passed by the learned Division Bench of this Court passed in LPA No. 1040-1123 of 2012, against the post earlier held by the respondent nos. 12 to 14, after fresh appointment process was carried out, pending disposal of the SLP by the Hon'ble Apex Court. It has further been submitted that the private respondent nos. 12 to 14 had also participated in the re-counseling held on 17.07.2012, however, they had not appeared in the re-counseling held on 27.11.2012.

The learned senior counsel, appearing for the private respondent nos. 12 to 14, at the outset, has raised a preliminary objection regarding maintainability of the present writ petition in view of availability of alternative remedy inasmuch as the orders passed by the District Appellate Authority is required to be assailed by filing appropriate appeal before the State



Appellate Authority. The learned senior counsel, appearing for the private respondent nos. 12 to 14, by referring to the counter affidavit filed on their behalf, has submitted that in response to the advertisement published for the appointment of Panchayat Teachers in the year 2006, 284 candidates had applied for the post of Panchayat Teachers in Bara Istambarar Panchayat including the petitioners and the private respondents. In the initial counseling held by the Panchyat Niyojan Samiti, the petitioners had not appeared, hence their cases were not considered for selection, nonetheless the private respondents had appeared, whereupon their counseling was held and they were finally selected as Panchyat Teachers. In the said process, a total number of 22 candidates of different categories including the private respondents were finally selected as Panchayat Teachers and appointment letters were issued to them. Subsequently, one Md. Mahboob Alam and others had filed a case before the Appellate Authority, Araria, bearing Case No. 7 of 2008, assailing the aforesaid process of selection of aforesaid 22 Panchayat Teachers and finally the Appellate Authority, Araria by an order dated 24.06.2009 had canceled the selection process and consequently the appointment of the aforesaid 22 selected Panchayat Teachers was also cancelled and the Niyojan



Samiti was directed to hold fresh selection process and conduct re-counseling. The private respondents had challenged the aforesaid order dated 24.06.2009 before this Court by filing a writ petition bearing CWJC No. 7640 of 2009, however, the same was dismissed by a judgment dated 23.04.2012 and the appeal thereof bearing LPA No. 1040 of 2012 was also dismissed by an order dated 01.08.2012. It is further submitted by the learned senior counsel for the respondent nos. 12 to 14 that the private respondents had then preferred SLP (C) No. 27772-27773 of 2012 before the learned Apex Court and the Hon'ble Apex Court had passed an interim order dated 05.11.2012, as aforesaid. However, the said SLP along with other analogous cases has been dismissed by the Hon'ble Apex Court by an order dated 13.08.2015. It has further been submitted that despite pendency of the SLP before the Hon'ble Apex Court, the concerned authority at the panchayat level had illegally taken up the process of fresh selection/appointment and a date for counseling was fixed, in which the answering respondents had also appeared and participated, nonetheless, a fresh date of counseling was fixed for 27.11.2012, however, neither the private respondents were informed about the said date nor they could come to know about the same, hence they



were precluded from participating in the counseling held on 27.11.2012 and ultimately fresh appointments have been made wherein the writ petitioners have been appointed illegally. It is further submitted that the private respondents herein are more meritorious than the petitioners herein, hence even on merit, the petitioners do not have any case.

I have heard the learned counsel for the parties and perused the materials on record. It is amply evident from the records that pursuant to an advertisement issued by the Panchayat Bara Istambarar in the year 2006, for the purposes of making appointment on the post of Panchayat Teachers, 22 Panchayat Teachers were appointed, however, the same was challenged by one Mahboob Alam and others by filing Case No. 7 of 2008 before the District Teachers Employment Appellate Authority, Araria and after following the appropriate process of law as also after hearing the parties concerned, the learned District Teachers Employment Appellate Authority, Araria by an order dated 24.06.2009, cancelled the appointments of the aforesaid 22 Panchayat Teachers and further directed for holding re-counseling as also issuing fresh appointment letters accordingly. The said order dated 24.06.2009 has admittedly been upheld up to the Hon'ble Apex Court inasmuch as the



Special Leave petitions filed before the Hon'ble Apex Court by the private respondents herein i.e. the respondent nos. 12 to 14 and other similarly situated candidates have been dismissed by an order dated 13.08.2015. Thus, the only bone of contention in the present case is as to whether the *Panchayat Niyojan Samiti*, Panchayat Bara Istambarar was competent to hold re-counseling and direct for appointment of fresh candidates on the post of Panchayat Teachers, during the pendency of the aforesaid Special Leave petitions before the Hon'ble Apex Court, in view of the interim order dated 05.11.2012 passed by the Hon'ble Apex Court in SLP (C) No. 27772-27773 of 2012, whereby and whereunder it had been directed that in case any selections are made during the pendency of the said Special Leave petitions, the same shall abide by the final outcome of the said Special Leave petitions. This Court finds that the District Teachers Employment Appellate Authority, Araria by the impugned order dated 30.06.2016 has cancelled the appointment of the petitioners herein merely on the ground that the process of re-counseling conducted by the Panchayat Niyojan Samiti and issuance of fresh appointments letter is against the mandate of the interim order passed by the Hon'ble Apex court on 05.11.2012, hence is illegal. In this regard it would suffice to



state that the Hon'ble Apex Court by the interim order dated 05.11.2012 had not granted stay either of the order dated 01.08.2012 passed by the Hon'ble Division Bench of this Court in LPA No. 1040 of 2012 or the order dated 23.04.2012 passed by the learned Single Judge in CWJC No. 7640 of 2009 or of the order dated 24.06.2009 passed by the District Teachers Employment Appellate Authority, Araria in Case No. 7 of 2008, whereby and whereunder the initial appointments of 22 Panchayat Teachers (including that of the private respondents), made pursuant to the advertisement issued in the year 2006, had been cancelled and the *Panchayat Niyojan Samiti* was directed to hold re-counseling and issue fresh appointments, hence the Panchayat Niyojan Samiti of the Panchayat Bara Istambarar was fully competent to hold re-counseling in the year 2012, after dismissal of LPA No. 1040 of 2012, preferred by the private respondents and others, by the Hon'ble Division Bench of this Court by an order dated 01.08.2012, as such the letters of appointment dated 25.02.2013 and 16.04.2013 issued to the petitioners and others cannot be faulted with. In any view of the matter, the aforesaid Special Leave petitions have already stood dismissed by the Hon'ble Apex Court vide order dated 13.08.2015, hence the order dated 24.06.2009 passed by the



District Teachers Employment Appellate Authority, Araria, has been found to be not suffering from any patent illegality, irrationality or perversity. Considering the aforesaid facts and circumstances of the case and for the reasons mentioned hereinabove, this Court finds that the impugned order dated 30.06.2016 as contained in Memo dated 01.07.2016 passed by the District Teachers Appellate Authority, Araria in Case No. 3 of 2016 is perverse, illegal and has been passed without any application of mind, contrary to and without comprehending the import of the interim orders passed by the Hon'ble Apex Court dated 05.11.2012 in SLP (C) No. 27772-27773 of 2012, hence the same is set aside.

Now, advertng to the preliminary objection raised on behalf of the private respondents regarding maintainability of the present writ petition, this Court finds that though it is a fact that the State Government, by a notification dated 13.08.2015, has constituted the State Appellate Authority and the orders passed by the District Appellate Authority are required to be assailed first by filing appropriate appeal before the State Appellate Authority, but then this Court finds that in cases where the impugned order is patently illegal and without jurisdiction, availability of alternative remedy does not operate



as a bar to this Court entertaining such writ petitions. In this regard, it would be apt to refer to a judgment rendered by the Hon'ble Apex Court in the case of ***Whirlpool Corporation vs. Registrar of Trade Marks, Mumbai & Ors.***, reported in (1998) 8 SCC 1, paragraphs no. 14, 15, 20 and 21 whereof are reproduced herein below:-

*“14. The power to issue prerogative writs under Article 226 of the Constitution is plenary in nature and is not limited by any other provision of the Constitution. This power can be exercised by the High Court not only for issuing writs in the nature of habeas corpus, mandamus, prohibition, quo warranto and certiorari for the enforcement of any of the Fundamental Rights contained in Part III of the Constitution but also for “any other purpose”.*

*15. Under Article 226 of the Constitution, the High Court, having regard to the facts of the case, has a discretion to entertain or not to entertain a writ petition. But the High Court has imposed upon itself certain restrictions one of which is that if an effective and efficacious remedy is available, the High Court would not normally exercise its jurisdiction. But the alternative remedy has been consistently held by this Court not to operate as a bar in at least three contingencies, namely, where the writ*



*petition has been filed for the enforcement of any of the Fundamental Rights or where there has been a violation of the principle of natural justice or where the order or proceedings are wholly without jurisdiction or the vires of an Act is challenged. There is a plethora of case-law on this point but to cut down this circle of forensic whirlpool, we would rely on some old decisions of the evolutionary era of the constitutional law as they still hold the field.*

*20. Much water has since flown under the bridge, but there has been no corrosive effect on these decisions which, though old, continue to hold the field with the result that law as to the jurisdiction of the High Court in entertaining a writ petition under Article 226 of the Constitution, in spite of the alternative statutory remedies, is not affected, specially in a case where the authority against whom the writ is filed is shown to have had no jurisdiction or had purported to usurp jurisdiction without any legal foundation.*

*21. That being so, the High Court was not justified in dismissing the writ petition at the initial stage without examining the contention that the show-cause notice issued to the appellant was wholly without jurisdiction and that the Registrar, in the circumstances of the case, was not justified in acting as the*



*“Tribunal”.*”

This Court also finds it useful to refer to a judgment rendered by the Hon’ble Apex Court in the case of ***Popcorn Entertainment & Anr. Vs. City Industrial Development Corporation & Anr.***, reported in ***(2007) 9 SCC 593***, paragraphs no. 21, 22, 23 and 47 whereof are reproduced herein below:-

*“21. As regards non-maintainability of the writ petition, the appellant relied upon the following decisions of this Court wherein this Court has held that the writ petitions can be held to be maintainable under certain circumstances:*

- (i) Gunwant Kaur v. Municipal Committee, Bhatinda [(1969) 3 SCC 769]*
- (ii) Century Spg. and Mfg. Co. Ltd. v. Ulhasnagar Municipal Council [(1970) 1 SCC 582]*
- (iii) Bal Krishna Agarwal (Dr.) v. State of U.P. [(1995) 1 SCC 614 :1995 SCC (L&S) 356 : (1995) 29 ATC 163]*
- (iv) Whirlpool Corpn. v. Registrar of Trade Marks [(1998) 8 SCC 1]*
- (v) Harbanslal Sahnia v. Indian Oil Corpn. Ltd. [(2003) 2 SCC 107]*
- (vi) Corpn. of the City of Bangalore v. Bangalore Stock Exchange [(2003) 10 SCC 212]*
- (vii) ABL International Ltd. v. Export Credit Guarantee Corpn. of India*



*Ltd. [(2004) 3 SCC 553]*

*(viii) Sanjana M. Wig v. Hindustan Petroleum Corpn. Ltd. [(2005) 8 SCC 242].*

*22. He invited our attention to Whirlpool Corpn. case [(1998) 8 SCC 1] wherein this Court has held that there are three clear-cut circumstances wherein a writ petition would be maintainable even in a contractual matter. Firstly, if the action of the respondent is illegal and without jurisdiction, secondly, if the principles of natural justice have been violated, and thirdly, if the appellants' fundamental rights have been violated.*

*23. According to the learned Senior Counsel, all the three principles as laid down in Whirlpool Corpn. [(1998) 8 SCC 1] have been made out in the instant case because the action of cidco is wholly without jurisdiction as it is seeking to resile from a concluded contract contrary to the express terms of the contract. Secondly, cidco, has violated the principles of natural justice as an order affecting the right of the appellant has been passed without giving an opportunity of hearing to the appellant and thirdly, the appellants' fundamental rights as guaranteed under Article 14 of the Constitution of India have been violated because similar allotments made without calling for tenders are not sought to be cancelled and the appellant is being*



*singled out by cidco while seeking to cancel the allotment in favour of the appellant.*

*47. We have given our careful consideration to the rival submissions made by the respective counsel appearing on either side. In our opinion, the High Court has committed a grave mistake by relegating the appellant to the alternative remedy when clearly in terms of the law laid down by this Court, this was a fit case in which the High Court should have exercised its jurisdiction in order to consider and grant relief to the respective parties. In our opinion, in the instant case, 3 of the 4 grounds on which writ petitions can be entertained in contractual matter were made out and hence it was completely wrong of the High Court to dismiss the writ petitions. In the instant case, 3 grounds as referred to in Whirlpool Corpn. [(1998) 8 SCC 1] have been made out and accordingly the writ petition was clearly maintainable and the High Court has committed an error in relegating the appellant to the civil court.”*

Having regard to the fact that this Court has already held, herein above, that the impugned order dated 30.06.2016 as contained in Memo dated 01.07.2016 passed by the District Teachers Appellate Authority, Araria in Case No. 3 of 2016 is perverse, illegal and has been passed without any application of



mind, this Court has no hesitation in further holding that the alternative remedy of appeal in the present case would not act as a bar to this Court entertaining the present writ petition, filed against the impugned order dated 30.06.2016 passed by the District Teachers Employment Appellate Authority, Araria, in view of the principles of law laid down by the Hon'ble Apex Court in the cases of *Whirlpool Corporation (Supra)* and *Popcorn Entertainment & Anr. (Supra)*. Moreover, considering the fact that considerable time has lapsed inasmuch as the instant writ petition is pending before this Court since the year 2016, it would neither be in the interest of justice nor equitable to relegate the petitioners to the alternative remedy of filing an appeal before the State Appellate Authority.

The writ petition stands allowed.

Nonetheless, this Court is of the further view that since the aforesaid Case No. 3 of 2016, filed by the private respondents herein i.e. the respondent nos. 12 to 14 has not been adjudicated on merits by the District Teachers Employment Appellate Authority, Araria, vide the impugned order dated 30.06.2016 and has been decided merely on technicalities and that too not only contrary to law but also in teeth of the interim order dated 05.11.2012, passed by the Hon'ble Apex Court in



SLP (C) No. 27772-27773 of 2012, I deem it fit and proper to remit the present case back to the District Teachers Employment Appellate Authority, Araria, with a direction to the said Authority at Araria to decide the aforesaid Case No. 3 of 2016 afresh on merits, after issuing notice to all the concerned parties, expeditiously.

**(Mohit Kumar Shah, J)**

S.Sb/-

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