

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6879 of 2021

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Baidyanath Kumar S/o Kamta Prasad Singh, r/o Kamla Bhawan, South
Tarkeshwar Path, P.S. - Phulwari, District - Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar.
2. The Principal Secretary, Education Department, Government of Bihar,
Patna.
3. The Director, Primary Education, Education Department, Government of
Bihar, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Patanjali Rishi, Advocate
For the State	:	Ms. Shilpa Singh, GA-XII
		Mr. Ram Vinay Pd. Singh, AC to GA-XII

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

Date : 15-12-2021

Heard learned counsels for respective parties.

In the instant petition, petitioner has prayed for the
following reliefs:-

“(i) For issuance of a writ in the nature of certiorari or a writ of certiorari or any other writ of the like nature thereby quashing the press note dated 05/02/2021 (Annexure P/5) whereby applications have been invited to fill up the vacancies of presiding officers of the District Level Appellate Authorities constituted under a ‘Bihar State Teaching Institutions Teachers and Employees (Disputes Redressal and Appeal) Rules, 2020.

(ii) For issuance of a writ in the nature of mandamus or a writ of mandamus or any other writ of the like nature thereby directing the respondents to treat the Bihar State Teaching



Institutions Teachers and Employees (Disputes Redressal and Appeal) Rules 202 as non-est and refrain from taking any action drawing any power from the said Rule.

(iii) For issuance of a writ in the nature of mandamus or a writ of mandamus or any other writ of the like nature thereby directing the respondents to refrain from making any appointment in furtherance of the said press release.

(iv) For issuance of a writ in the nature of mandamus or a writ of mandamus or any other writ of the like nature thereby directing the respondent authorities to continue with the appointment process in accordance with the existing Rules i.e., the Bihar State Teachers and Employees Disputes Redressal Rules, 2015.

(v) For issuance of a writ in the nature of mandamus or a writ of mandamus or any other writ of the like nature thereby directing the respondent authorities to continue with the appointment process in terms of the press release dated 12/09/2019 & 06/02/2020 till pendency of this petition.

(vi) For grant of any other relief as this Hon'ble Court may deem appropriate in light of the facts and circumstances of this case."

One of the contention in support of prayer is that Notification dated 25.08.2020 in respect of filling up of the post of Presiding Officer was not notified in the Gazette in terms of law.

On 22.11.2021, the following order was passed:-



“Heard learned counsel for the parties.

Petitioner has assailed the advertisement dated 05.02.2021 for recruitment to the post of Presiding Officer of the District Level Appellate Authorities constituted under Bihar State Teaching Institutions Teachers and Employees (Disputes Redressal and Appeal) Rules, 2020.

One of the contention is that Notification dated 25.08.2020 in respect of filling up of the post of Presiding Officer was not notified in the Gazette. To that effect petitioner has filed an affidavit. Therefore, the respondent no. 3, Director, Primary Education, Education Department, Government of Bihar, Patna is hereby directed to file an affidavit as to whether Notification dated 25.08.2020 has been gazetted, if it is so, a copy of the Gazette Notification be made available along with the affidavit on the next date of hearing.

Relist the matter on 02.12.2021.”

Learned counsel for the State on instruction submitted that Notification dated 25.08.2020 was notified in the Gazette on 09.07.2021.

In the light of these dates and events Advertisement dated 05.02.2021 which is prior to the Gazette Notification dated 09.07.2021, therefore, the respondents cannot issue advertisement prior to 09.07.2021, the date on which Notification dated 25.08.2020 was notified in the Gazette and it would be effective and valid w.e.f. 09.07.2021. Thus, the petitioner has made out a



case so as to interfere with the impugned advertisement dated 05/02/2021. Accordingly, the impugned Press note/Advertisement dated 05.02.2021 (Annexure-P/5) is set aside reserving liberty to the respondents to proceed afresh in accordance with law.

With the aforesaid observations, the writ petition stands allowed.

(P. B. Bajanthri, J)

Vikash/-

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

