

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.688 of 2022

1. Arun Kumar Baitha Son of Satya Narayan Baitha Resident of Village- Rampura, Police Station- Kalyanpur, District- Samastipur.
2. Shanti Kumari Wife of Sita Ram Sah Resident of Village- Ladaura, Police Station- Kalyanpur, District- Samastipur.
3. Mohan Kumar Ray Son of Ram Nandan Ray Resident of Village- Dhruvgama, Police Station- Kalyanpur, District- Samastipur.
4. Rinku Kumari Wife of Arbind Kumar Poddar Resident of Village- Koylakund, Police Station- Kalyanpur, District- Samastipur.
5. Asim Kumar Son of Ram Dayal Sah Resident of Village- Gauspur Sarsauna, Police Station- Bangra, District- Samastipur.
6. Kamal Kumar Son of Pawan Mahto Resident of Village- Kharsand, Police Station- Kalyanpur, District- Samastipur.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Education Department, Govt. of Bihar, Patna.
2. The Director, Primary Education, Education Department, Government of Bihar, Patna.
3. The District Magistrate, Samastipur.
4. The District Education Officer, Samastipur.
5. The District Programme Officer (Establishment), Samastipur.
6. The Dy. S.P., Vigilance Investigation Bureau, Patna.
7. The Block Education Officer, Kalyanpur, District- Samastipur.
8. The Panchayat Secretary, Gram Panchayat Raj Tira, Block- Kalyanpur, District- Samastipur.
9. The Panchayat Secretary, Gram Panchayat Raj Chakmehasi, Block- Kalyanpur, District- Samastipur.
10. The Panchayat Secretary, Gram Panchayat Raj Jitwaria, Block- Kalyanpur, District- Samastipur.
11. The Head Master, Primary School, Manikauli, Block- Kalyanpur, District- Samastipur.
12. The Head Master, Primary School, Dharampur, Block- Kalyanpur, District- Samastipur.
13. The Head Master, Primary School, Chakmehasi Kothi, Block- Kalyanpur, District- Samastipur.
14. The Head Master, Primary School, Jatmalpur Kuttitol, Block- Kalyanpur, District- Samastipur.

... .. Respondent/s



Appearance :

For the Petitioner/s : Mr.Abhay Kumar Jha
For the Respondent/s : Mr.Smt. Binita Singh (Sc28)

**CORAM: HONOURABLE MR. JUSTICE SANJEEV PRAKASH
SHARMA**

ORAL ORDER

2 08-03-2022 The case is being taken up from defect side.

Learned counsel for the petitioners is directed to submit the original petition along with attested affidavits and also remove all the defects pointed out by the Registry within two weeks from today.

In view of the judgment passed in the case of Suresh Ram Vrs. The State of Bihar & Ors. (C.W.J.C. No. 5489 of 2020) and connected petitions where this Court has held as under :

“13. Having reached to the aforesaid conclusion, this Court directs that all the matters concerning teachers pending before this Court deserve to be first adjudicated on merits and on facts by the concerned relevant District Appellate authority. If still there is any grievance left, the concerned person would be entitled to take up the matter before the State Appellate Authority and this Court need not deal with such matters at the initial stage.

14. Having stated so, the learned counsel have informed that



on account of Pandemic for the last two years, the State Government has not taken any steps for forming District Appellate Authority and the District Appellate Authorities are non-functional in several districts.

15. Accordingly, it is directed that the writ petition and similarly situated other writ petitions are required disposed of in terms as aforesaid with liberty to approach the District Appellate Authority. The petitioner would be free to obtain a certified copy of the present petition and the counter affidavit if any filed by the respective State counsel to be made as part of the pleadings and file an application before the District Appellate Authority, who would be entitled to call for the records from the respective schools/establishment/college etc. and after hearing the parties pass a speaking order expeditiously.

16. Learned counsel appearing for the State shall also inform the Chief Secretary and Secretary of Education about the present order and it is directed that the Chief Secretary and the Secretary, Education Department shall take immediate steps for the respective District



Appellate Authorities to start their function. The necessary staffs and members shall be appointed as early as possible not later than a period of one month from today. Necessary directions for their functioning shall also be passed accordingly.

17. The writ petitions are accordingly, disposed of.”

2. It is informed by the learned counsel for the petitioners that the State Appellate Authority is not entertaining the petition directly on the ground that it is an appellate forum. It is also informed that the State Government has not formed the District Appellate Authority in several districts and the District Appellate Authorities are non-functional. It goes without saying that the very purpose of the Rules of 2020 is to provide alternative and efficacious remedy to the teachers for quick redressal of their grievances relating to their services. In circumstances where the District Appellate Authority do not function or the same has not been formed by the State Government, the State Appellate Authority which is the extension of the adjudicating Authority powers given to the District Appellate Authority, can not wash its hands off such cases where the concerned teachers have approached



directly the State Appellate Authority for redressal of his/her grievance in situations on account of the District Appellate Authority being non-functioning.

3. The concerned litigants will of-course have to file an affidavit to the effect that the District Appellate Authority is not functioning.

4. If such an affidavit is filed it is expected from the State Appellate Authority to entertain the grievance directly and adjudicate on the merits of the case.

5. Accordingly, the writ petition is disposed of.

(Sanjeev Prakash Sharma, J)

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