

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.642 of 2022

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Mohan Kumar Singh S/o Rama Singh, Resident of Village - Jawairia, P.O. - Shiv Mahamodpur, P.S. - Marhaura, Dist. - Chhapra, Saran.

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Education Department, Government of Bihar, Patna.
2. The Director of Education, Higher Secondary School, Department of Education, Bihar, Patna, New Secretariat Patna, Bihar.
3. The Deputy Director of Education, Secondary School, Bihar, Patna.
4. The Deputy Commissioner Cum Executive Officer, Saran District, Saran, Chhapra.
5. The District Program Officer, Chhapra, Saran.
6. The District Education Officer, Chhapra, Saran.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Maheshwar Prasad, Adv.
For the Respondent/s : Mr. Subhash Chandra Mishra (Sc16)

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CORAM: HONOURABLE MR. JUSTICE SANJEEV PRAKASH SHARMA

ORAL ORDER

2 08-03-2022 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 petitioner 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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