

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.774 of 2022

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Bijay Shankar Tiwari Son of Late Kanhaiya Tiwari, Resident of Village - Sukhanand Ashram, Nagwa, P.O. - Lanka, P.S. - Lanka, District - Varanasi at present resident at Pandit Deonath Pandey High School, Bare, P.S. - Bhabhua, District - Kaimur (Bhabhua). Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Human Resources Department (Secondary Education), Government of Bihar, Patna-1
2. The Principal Secretary, Human Resources Department (Secondary Education), Government of Bihar, Patna-1
3. The Director, Secondary Education, Human Resources Department, Government of Bihar, Patna-1
4. District Education Officer, Kaimur at Bhabhua.
5. District Program Officer (Esta). Kaimur at Bhabhua.
6. District Magistrate, Kaimur (Bhabhua).
7. The District Treasury Officer, Kaimur (Bhabhua).
8. The Director, Vigilance Cell, Vigilance Department, Govt. of Bihar, Patna.
9. The Accountant General, Bihar, Patna.
10. The Headmaster, Pandit Deonath Pandey High School, Bare, Kaimur at Bhabhua.
11. The Headmaster, Swami Dharni Dharacharya High School, Puran, Old District - Gaya. Now District - Arwal.
12. Sri Awadhesh Kumar Srivastav, Son of Luxmi Narain Srivastav, Retired Headmaster Pandit Deonath Pandey High School, Bare, Kaimur at Bhabhua. At present resident of Ward No. 6, Near Kali Asthan, G.T. Road, Mohaniya, P.S. - Mohaniya, District - Kaimur (Bhabhua).
13. The District Education Officer, Arwal.

... .. Respondents

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Appearance :

For the Petitioner/s	:	Mr.Vivekanand Vivek, Advocate
For the Respondent/s	:	Smt. Binita Singh, (Sc28)
For the Vigilance	:	Miss. Archana Palkar Khopde, Advocate
For Accountant General	:	Mr. Bindhyachal Rai, Advocate

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CORAM: HONOURABLE MR. JUSTICE SANJEEV PRAKASH SHARMA

ORAL JUDGMENT

Date : 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 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 in



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. In Suresh Ram’s case (C.W.J.C. No. 5489 of 2020) and connected petitions this Court has also held that the District Appellate Authority must be made functional within a period of one month by the State Government. In the case of Minakshi @ Sushre Minakshi & Anr. Vrs. The State of Bihar & Ors. (C.W.J.C. No. 34 of 2022) this Court has observed that if the District Appellate Authority is not functioning, an affidavit may be filed to the said effect before the State Appellate Authority and the State Appellate Authority would be empowered to examine the grievance and pass orders directly or after giving opportunity to the parties.

6. In view of the above, this case is disposed of in aforesaid terms.

(Sanjeev Prakash Sharma, J)

Ravi/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	12.03.2022
Transmission Date	NA

