

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5185 of 2021

Prabodh Jha Son of Yuge Jha at present resident of Mohalla 12/6, New Alkapuri, Post Office- Anishabad Police Station- Gardanibagh, Town and District- Patna, State- Bihar.

... .. Petitioner/s

Versus

1. The State of Bihar through its Director, (Primary Education), Bihar, Patna.
2. The Director, (Primary Education), Bihar, Patna.
3. The Deputy Secretary, (Primary Education Department), Bihar, Patna- 800015.
4. The Bihar School Examination Board Patna, Town and District Patna through its Chairman.
5. The Chairman, Bihar School Examination Board Patna, Town and District- Patna- 800017.
6. The Secretary, Bihar School Examination Board Patna, Town and District- Patna- 800017.
7. The Joint Secretary (Establishment), Bihar School Examination Board Patna, Town and District- Patna- 800017.
8. The Assistant Secretary, Bihar School Examination Board Patna, Town and District- Patna- 800017.
9. The Assistant Secretary (Vigilance), Bihar School Examination Board Patna, Town and District- Patna- 800017.
10. The Deputy Secretary (Vigilance), Bihar School Examination Board Patna, Town and District- Patna- 800017.
11. The Principal, District Education and Training Institute, Chakla, Kishanganj.
12. The Chief Vigilance Officer-cum- Enquiry Officer, Bihar School Examination Board Patna, Town and District- Patna- 800017.
13. The Controller of Examinations (Secondary), Bihar School Examination Board Patna, Town and District- Patna- 800017.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Birmani Kumar
For the State	:	Mr. Vivek Anand Amritesh
For the Board	:	Mr. Gyan Shankar

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

Date : 03-02-2022

The matter is heard via video conferencing due to



circumstances prevailing on account of the COVID-19 pandemic.

None appears for the petitioner.

Learned counsel appearing on behalf of the Board accept notice for Respondent Nos. 4 and 6. Petitioner has unnecessarily impleaded Respondent Nos. 1 and 2 as parties, since the grievance of the petitioner is required to be examined only by the Board. Therefore, petitioner is hereby directed to delete them.

Petitioner was dismissed from service on 10.10.2020. He has statutory remedy of appeal before the Board against the order of dismissal dated 10.10.2020. Without exhausting the remedy of appeal petitioner has presented this petition. Therefore, the present petition is pre-mature to entertain in the light of Apex Court decision in the case of State of *Jammu and Kashmir V. R.K. Zalpuri* reported in *AIR 2016 SC 3006* at para 20 held as under:

“20. Having stated thus, it is useful to refer to a passage from City and Industrial Development Corporation V. Dosu Aardeshir Bhiwandiwalla and Others, wherein this Court while dwelling upon jurisdiction under Article 226 of the Constitution, has expressed thus:-

“The Court while exercising its jurisdiction under Article 226 is duty-bound to consider whether:

(a) adjudication of writ petition involves any complex and disputed questions of facts and whether they can be satisfactorily resolved;

(b) the petition reveals all material facts;

(c) the petitioner has any alternative or effective remedy for the



resolution of the dispute;

(d) person invoking the jurisdiction is guilty of unexplained delay and laches;

(e) ex facie barred by any laws of limitation;

(f) grant of relief is against public policy or barred by any valid law; and host of other factors.”

Accordingly, the present petition stands disposed of reserving liberty to the petitioner to prefer appeal before the Bihar School Examination Board against the order of dismissal datd 10.10.2020 passed by the Secretary to the Bihar School Examination Board. If such appeal is filed within a period of eight weeks from the date of receipt of this order, the appellate authority-Board is hereby directed to decide the petitioner’s appeal within a period of six months from the date of receipt of petitioner’s appeal. The appellate authority-Board is also directed to examine the delay in preferring appeal in the light of Section 14 of the Limitation Act so as to condone the delay in preferring the appeal. In this regard, petitioner is permitted to file application for condonation of delay also.

(P. B. Bajanthri, J)

rakhi/-

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	

