

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5770 of 2022

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Priyanka Kumari W/o Hari Shankar Kumar, R/o Tara Niwas, Gachi Tola, Vishwanath Nagar, P.O. and P.S.- Nagar, Begusarai, District - Begusarai, Presently working as Block Teacher in Upgraded Middle School, Prakhand Colony, Cheriabariarpur, District- Begusarai.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Education Department, Government of Bihar, Patna.
2. The Director Primary Education, Department of Education, Govt. of Bihar, Patna.
3. The District Education Officer, District- Begusarai.
4. The District Program Officer (Establishment), District - Begusarai.
5. The Block Development Officer-cum-Secretary Block Teachers Employment Unit, Block - Cheriabariarpur, District - Begusarai.
6. The Headmaster, Upgraded Middle School, Prakhand Colony, Cheriabariarpur, District- Begusarai.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Avanindra Kumar Jha, Adv.,

For the State : Mr.Subash Chandra Mishra (Sc16) with
Mr. Samir Kumar, AC to SC-16

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CORAM: HONOURABLE MR. JUSTICE SANJEEV PRAKASH SHARMA

C.A.V. JUDGMENT

Date : 16-05-2022

1. Heard the parties.
2. Considering the nature and urgency the issued involved in the case, arguments were heard at the initial stage itself. Learned Government Advocate was also agreed to submit his arguments orally.



3. The short point involved in the present matter is as to whether the State Appellant Authority can hear and decide an application filed directly to it for redressal of grievance of an employee in terms of Bihar State Teaching Institutions Teachers and Employee (Dispute Redressal And Appeal) Rules, 2020 (hereinafter referred to as the Rules, 2020).

4. The brief facts which require to be noted that the petitioner Priyanka Kumari filed an application under Rule 14 (A) read with 14 (B) of the Rules of 2020 before the State Appellate Authority seeking redressal of her grievance of extension of all due benefits of order of reinstatement. The State Appellate Authority did not register the case on the basis of an objection raised by their office that the application is not maintainable before it directly. The case was heard on the objections and the State Appellate Authority has held as under:-

“We thus hold that under the scheme of the 2020 Rules this Court has been constituted as the Appellant Forum/Authority. If any dispute is filed directly before this court and entertained and the lis is decided the litigants will lose the



forum of an appeal as provided under 2020 Rules which is not the intent of the Rules.

We accordingly uphold the objection raised by the office and hold the present application/appeal not maintainable before this Court.”

The writ petition has thus been preferred before this Court.

5. Learned counsel submits that this Court vide order dated 23.02.2022, passed in **C.W.J.C. No. 5489 of 2020 (Suresh Ram Vrs. State of Bihar & Ors.)** had directed that the District Appellate Authority shall adjudicate the disputes on merits and if, there is any grievance further, the parties would be entitled to take up the matter before the State Appellate Authority. In Review Petition **C.W.J.C. No. 34 of 2022 (Minakshi @ Sushre Minakshi & Anr. Vrs. The State of Bihar & Ors.)**, it was held as under:-

“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.”



6. Learned counsel submits that in spite of the aforesaid order passed by this Court, the State Appellate Authority is not entertaining any application directly and their office is also not registering the applications. He further assails the order passed by the State Appellate Authority and submits that the reasoning adjudicated by the State Appellate Authority goes contrary to the Judgment passed by this Court and is otherwise also erroneous.

7. Learned counsel appearing for the State has assisted the Court and fairly and candidly stated that after going through the Rules, the provision of Rule 14 of the Rules 2020 and the Judgment passed by this Court in *Minakshi @ Sushre Minakshi & Anr. Vrs. The State of Bihar & Ors.* (supra), the State Appellate Authority could not have refused an application filed before it directly.

8. While at the outset, this Court deems it appropriate to observe that an order passed by the High Court ought not be ignored and is required to be followed. All authorities formed under any statute judicial or quasi judicial are required to comply with



the High Court's orders. A verdict of the High Court cannot be ignored or sidelined by any quasi judicial or judicial authority formed in the State. If, orders of the High Court are ignored not only an atmosphere of judicial confusion arises, but also it amounts to judicial in-disable. It appears that the State Appellate Authority did not find the Judgment passed by this Court palatable and, therefore, it proceeded to conveniently ignoring the order not only that it has also proceeded to give its own interpretation to Rule 14 of the Rules, 2020.

9. Faced with the situation, this Court although could have closed the matter directing the State Appellate Authority to comply with the orders passed by this Court in Minakshi @ Sushre Minakshi & Anr. Vrs. The State of Bihar & Ors. (supra), but in order to leave no doubt in mind, this Court deems it appropriate to examine the true import of Rule 14 of the Rules, 2020.

10. It would be apposite to quote Rule 14 which reads as under:-



“14. Powers and Function of State Appellate Authority -

(A) The Authority shall not ordinarily accept any application unless being satisfied that the applicant has availed all the alternative remedy available to him to resolve the dispute under relevant provisions.

(B) The Authority shall not entertain the application/ Complaints unless the same has been filed within 30 days from the date of passing of the final order. But the Authority will have jurisdiction to condone the delay in filing the appeal on the basis of reasonable grounds.

(C) The Authority shall hear the appeal against the decision of District Appellate Authority.

(D) The Authority shall hear the appeal against the decisions of the Divisional level Fee Regulation Committee constituted under Bihar Private Schools (Fee Regulation) Act, 2019.

(E) The State Appellate Authority shall have the same powers for enquiry of any matter or hearing which has been vested in the Civil Court under Civil Procedure Code, 1908. while



adjudicating any dispute the following powers shall be exercised :-

(i) To issue summons to ensure the presence of the persons and to compel them to produce evidence verbal or written through affidavit or to produce the documents/ record.

(ii) To search the record and to get the same inspected.

(iii) To tender evidence on Oath.

(iv) To issue summons to produce witnesses or record for inspection.

(F) The authority shall exercise the functions and powers being entrusted by the Department from time to time.

11. Rule 14 (A) deals with the situation where any **application** is filed to the State Appellate Authority for resolving the dispute after it is satisfied that there is no alternate remedy available. The authority is required to accept such **application** in the ordinary course. Such **application** has to be filed within the limitation period as prescribed under Rule 14 (B) and if, it is delay, reasons have to be



assigned which may be considered by the authorities and the delay may be condoned on reasonable grounds. Thus, Rule 14 (A) allows a method of directly approaching the State Appellate Authority, when no alternate remedy is available.

12. Apart from Rule 14 (A), 14(B), the authority has been granted jurisdiction to hear **appeals** against the decision of the District Appellate Authority under Rule 14 (C). It also has the powers to hear **appeals** against the decision of the Fee Regulation Committee constituted under the Bihar Private School Fee Regulation Act, 2019 under Rule 14 (D). The **appeals** preferred under Rule 14 (C) and (D) are by way of right from the respective adjudicating authority namely, the State Appellate Authority and the Committee formed under the Act of 2019 respectively.

13. Thus, Rule 14 has to be read in two parts, one is 14 (A) and 14 (B) in relation to applications to be directly filed for resolving the dispute and Rule 14 (C) and 14 (D) which provide jurisdiction to the authority to hear appeals.



Rule 14 (E) lays down the power of the State Appellate Authority for enquiring into any matter or hearing as akin to a Civil Court under CPC 1908. Interpretation of the learned State Appellate Authority of treating all the provisions of Rule 14 conjointly.

14. The views taken by State Appellate Authority of considering it to be only an authority to hear appeals is thus found to be an erroneous interpretation. The word “application” is distinct from word “appeal” while Rule 14 (A) and 14 (B) talks about application/complaints, Rule 14 (C) and 14 (D) mention the word “appeal”.

15. It is settled law that while interpreting a provision, the words mentioned in the statute have to be read as it is. The word application cannot, therefore, be read as an **“appeal”** nor the word **“appeal”** can be read as an **“application”**. They are in two different forms. While appeal is defined as per Black’s Law Dictionary as a proceeding undertaken to have a decision reconsidered by a higher authority. Application has been defined as a



request for petition. Thus, these are two different forms and have to be read accordingly. The authority has thus failed to exercise jurisdiction vested in it by the Rules.

16. The order passed by the State Appellate Authority dated 07.09.2021, therefore, is not sustainable in law.

17. Even, otherwise once the High Court has taken an interpretation and directed the State Appellate Authority to entertain application directly vide its Judgment dated 07.03.2022, passed in **C.W.J.C. No. 34 of 2022 (Minakshi @ Sushre Minakshi & Anr. Vrs. The State of Bihar & Ors.)**, there was no occasion for the office of the State Appellate Authority to raise objections relating to entertaining of such applications.

18. Leaving the matter at the stage, it is now directed that the writ petition is disposed of with direction to the State Appellate Authority to examine the application filed by the petitioner on merits and decide the same expeditiously.



19. This Judgment shall be treated as Judgment in rem. In other words, it shall be applicable for all cases which may be filed before the State Appellate Authority by way of an application. It would be registered by them separately and in-distinction to the appeals.
20. The writ petition is allowed accordingly.

(Sanjeev Prakash Sharma, J)

pravinkumar/-

AFR/NAFR	A.F.R.
CAV DATE	10.05.2022
Uploading Date	
Transmission Date	

