

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.447 of 2022

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Raj Kumari Wife of Shri Prasad Sah Resident of Village - Simaria, Ward No. 07, Police Station - Kalyanpur, District- Samastipur, Presently posted as a Block Teacher in Middle School, Bhindi, under Block - Kalynpur, 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 Regional Deputy Director of Education, Darbhanga Division, Darbhanga.
4. The Dy. S.P. Vigilance, Investigation Bureau, Patna.
5. The District Magistrate, Samastipur.
6. The District Education Officer, Samastipur.
7. The District Programme Officer (Establishment) Samastipur.
8. The Block Development Officer, Kalyanpur, District- Samastipur.
9. The Block Education Officer, Klyanpur, District- Smsatipur.
10. The Head Master, Middle School, Bhindi, Block Kalyanpur, District- Samastipur.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Abhay Kumar Jha
For the Respondent/s : Mr.Prabhakar Jha (Gp27)

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CORAM: HONOURABLE MR. JUSTICE SANJEEV PRAKASH SHARMA
ORAL ORDER

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

Learned counsel for the petitioner is directed to submit the original petition along with attested affidavits and also remove 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 un-



der:

“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 De-



partment 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 authority. 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-functional.



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 accordingly 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)

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