

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2443 of 2021

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Sunita Kumari D/o Janardhan Ray @ Janardan Maharaj, Resident of Mohalla-
Barmasiya (Behind Power House), P.S. and District- Katihar. Petitioner
Versus

1. The State of Bihar through the Principal Secretary, Education Department,
Govt. of Bihar, Patna.
 2. The Director, Primary Education, Bihar, Patna.
 3. The District Education Officer, Katihar.
 4. The District Programme Officer (Establishment), Katihar.
 5. The Block Education Officer, Kadwa, Katihar.
 6. The Mukhiya, Sagrah Gram Panchayat, Kadwa, Katihar.
 7. The Panchayat Secretary, Sagrah Gram Panchayat, Kadwa, Katihar.
- Respondents

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Appearance :

For the Petitioner	:	Mr. Bhola Prasad, Advocate Mr. Sanjeev Kumar Singh, Advocate
For the State	:	Ms. Namrata Singh, AC to GA-12

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

9 19-09-2023 This writ application has been filed seeking issuance of

a writ in the nature of a Mandamus directing the respondents to

implement the order dated 01.10.2009 passed by the District

Teacher Employment Appellate Authority, Katihar in Appeal Case

No. 1603 of 2009.

2. Learned counsel for the petitioner admits that there is

a provision under Rule 21 of the Bihar Panchayat Elementary

School Service (Appointment, Promotion, Transfer, Disciplinary

Proceeding and Service Condition) Rules, 2020 (hereinafter

referred to as the 'Rules of 2020') governing the case of the

petitioner whereunder she may seek implementation of the order



before the learned District Appellate Authority itself.

3. Earlier, this Court has taken note of the stand of the District Education Officer, in its order dated 04.09.2023. The same is being reproduce hereunder for a ready reference:-

“Order dated 04.09.2023

Pursuant to the order dated 29.08.2023, the District Education Officer, Katihar namely Sri Kameshwar Prasad Gupta is present in person. He has filed a counter affidavit wherein from Annexure- ‘D’ it appears that this petitioner stands at serial no.8 in the merit list of the handicapped candidates of the concerned employment unit in the year 2006. It further appears that out of 21 vacancies, 20 vacancies had already been filled up, one candidate had joined but had later on left, however, there is no document on the record to show that he had resigned.

It further appears that in the next recruitment process of the year 2008 the left over vacancy of the year 2006 had been taken into account and in 2008 process one handicapped candidate Ms. Juli Kumari was appointed.

From Annexure- ‘D’ it further appears that in the year 2009 when the matter was being considered by the District Appellate Authority one Suresh Sharma who was the then Panchayat Secretary had appeared but at that time he had not been handed over the entire records by his predecessor, therefore, correct information could not be furnished to the District Appellate Authority.

Learned counsel for the petitioner submits that he will file a rejoinder to the counter affidavit.

As prayed, let this matter be listed on 18.09.2023 under the same heading maintaining it’s position. No further adjournment shall be granted.

The personal appearance of the District Education Officer, Katihar is dispensed with.”



4. Learned counsel for the petitioner submits that by filing a rejoinder, the petitioner has brought a photocopy of the letter dated 07.03.2019 written under the Right to Information Act which contains a list of 21 selected candidates. His contention is that in the said list, there is no handicap candidate. It is his submission that out of 10 handicap candidates' name, only two found place in the counselling list and out of them, only the petitioner was participating in the counselling process, so she was entitled for consideration.

5. It appears that from the records that in this case there is already an order of the District Appellate Authority. This Court is not sitting in appeal over the said order. The issues which are being raised in the counter affidavit, at this stage, is not fit to be considered in the present writ application. The respondents have not challenged the order of which implementation is being sought for by the petitioner.

6. In the aforesaid view of the matter, this writ application is being disposed of with liberty to the petitioner to seek her remedy before the District Appellate Authority in terms of the Rule 21 of the Rules of 2020.

(Rajeev Ranjan Prasad, J)

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