

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6203 of 2024

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Mahaveer Sah son of Sukhdev Sah, Resident of village- Naya Gaon, P.O. and
P.S. Aurai, District - Muzaffarpur.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. The Additional Chief Secretary, Education Department, Government of Bihar, Patna.
3. The Director, Primary Education, Education Department Government of Bihar, Patna.
4. The District Magistrate, Muzaffarpur, District- Muzaffarpur.
5. The District Education Officer, Muzaffarpur, District -Muzaffarpur.
6. The District Programme Officer (Establishment), Muzaffarpur, District - Muzaffarpur.
7. The Block Development Officer, Paroo, District- Muzaffarpur.
8. The Block Education Officer, Paroo, District - Muzaffarpur.
9. The Mukhiya, Gram Panchayat Raj, Jaimal Dumri, Block- Paroo, District - Muzaffarpur.
10. The Panchayat Secretary, Gram Panchayat Raj, Jaimal Dumri, Block- Paroo, District - Muzaffarpur.
11. The District Appeal Authority, (Education Department), Muzaffarpur, through the Presiding Officer.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Vijay Kumar Singh, Advocate
For the Respondent/s	:	Mr. Manoj Kumar Ambastha, SC-26
		Mr. Subodh Kumar, AC to SC-26

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL ORDER

2 18-11-2024 Heard learned counsel for the petitioner and learned
counsel for the respondent/State.

2. This writ petition has been filed for following
reliefs:-

“(I) For issuance of an appropriate writ in the nature of
mandamus, commanding the Respondent Authorities



particularly the Respondent nos. 9 and 10 to complete the process of employment/selection of the petitioner in accordance with law after counseling the petitioner pursuant to the order dated 14.10.2023 passed in Case No.13 of 2023 by the Muzaffarpur District Appellate Authority, contained in memo no.183 dated 14.10.2023 as also the subsequent letter issued by the Respondent no.6 contained in letter no.08 dated 02.01.2024.

(II) For issuance of an appropriate writ in the nature of mandamus, commanding the Respondent Authorities to take suitable departmental action against Respondent no. 10 pursuant to the order dated 14.10.2023 passed in Case No.13 of 2023 by the District Appellate Authority, Muzaffarpur contained in memo no.183 dated 14.10.2023 on the ground that he misused his post in conducting the selection process as also he deliberately did not comply the order passed by the District Appellate Authority as well as the order passed by the superior Authority i.e. the District Programme Officer (Establishment).

(III) For issuance of any other appropriate writ/writs. order/orders, direction/directions for which the writ petitioner would be found entitled under the facts and circumstances of the case.”

3. At the outset, learned counsel for the State raises preliminary objection on the maintainability of writ petition and submits that as a matter of fact petitioner has filed writ petition for execution of order dated 14.10.2023 passed in Case No.13 of 2023 by the District Appellate Authority, Muzaffarpur. Learned counsel submits that in case of non-compliance of order of the District Appellate Authority, the petitioner has got statutory remedy to approach before the State Appellate Authority under Rule 16 of the Bihar State Teaching Institutions Teachers and Employees (Disputes Redressal and Appeal) Rules, 2020 (for short “Rules, 2020”).

“16. Power to impose Punishment:- In case of



non-compliance of the order/direction or in case of any complaints by the party for compliance of the order:-

(i) The Appellate Authority shall impose punishment against-concerned party but he will be given adequate opportunity of hearing before imposing punishment.

(ii) The Appellate Authority may impose penalty upto Rs. 50,0001/- (Fifty thousand only) upon the answerable party. The amount of penalty shall be deposited in the Treasury under the head indicated by the Department. The amount of penalty shall be recoverable by way of Public demand.

(iii) The Appellate Authority shall have jurisdiction to make recommendation to the concerned Department to initiate Departmental proceeding or to take necessary action against the delinquent employee under the provisions of Bihar Service Code/Bihar Panchayat Raj Act 2006/Bihar Municipal Act 2007 and other relevant provisions.”

4. It is settled law that where a right or liability is created by a statute which gives special remedy for enforcing it, the remedy provided by the statute alone must be availed of. Any individual grievance still pending or not redressed, can be taken up before the concerned District Appellate Authority/State Appellate Authority by filing an appeal. In the present case, since the petitioner has got statutory alternative remedy before the State Appellate Authority under rule 16 of the Rules, 2020,



this Court is not inclined to interfere in the matter in its extra-ordinary writ jurisdiction and directs the petitioner to seek remedy before the State Appellate Authority.

5. Needless to state here that the issue of limitation, if any, arises, the same may be considered as the petitioner was pursuing the matter before this Court.

6. With above observation and direction, the writ petition stands disposed of.

(Prabhat Kumar Singh, J)

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