

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.223 of 2022

In

Civil Writ Jurisdiction Case No.13335 of 2021

=====

Jay Kishor Kumar Nirala Son of Sri Ramjee Sharma, Resident of Rikabganj
Tekari, Gaya, P.S.- Tekari, Sub- Division- Tekari, District- Gaya.

... .. Appellant/s

Versus

1. The State of Bihar through the Principal Secretary, Education Department, Government of Bihar, Patna.
2. The Principal Secretary, Education Department, Government of Bihar, Patna.
3. The Director, Primary Education, Education Department, Government of Bihar, Patna.
4. The District Magistrate, Gaya.
5. The Block Education Officer, Tekari, Gaya.
6. The District Programme Officer, (Primary Education and Sarva Siksha Abhiyan), Gaya.
7. The District Education Officer, Gaya.
8. The Headmaster Middle School, Sahbajpur Tekari, District- Gaya.
9. The Bihar Education Project, Gaya.

... .. Respondent/s

=====

Appearance :

For the Appellant/s : Mr. Sanjeet Kumar, Advocate
For the Respondent/s : Mr. Rohitabh Das, AC to AAG13

=====

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE PARTHA SARTHY

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 03-10-2024

1. The writ petition is by a teacher who was recruited by the Bihar Public Service Commission but terminated from service. The termination was challenged before the learned Single Judge. The learned Single Judge relied on two decisions of this Court dated 23.02.2022 passed in



C.W.J.C. No. 5489 of 2020 (Suresh Ram Vs. The State of Bihar & Ors) and dated 07.03.2022 passed in **C.W.J.C. No. 34 of 2022 (Minakshi @ Sushre Minakshi & Anr. Vrs. The State of Bihar & Ors.)** and directed that the appellate authority be approached.

2. Later similar orders passed in the cases of teachers who were recruited by the B.P.S.C. and later terminated from service were challenged before the Division Bench. The Division Bench in a batch of Letters Patent Appeals numbered as L.P.A. No. 255 of 2022 (arising out of C.W.J.C. No. 5489 of 2020) (Dhananjay Singh & Ors. v. The State of Bihar & Ors.) and other analogous appeals found that there is no identity of facts in the cited decisions and the petitioner's case. The persons in the cited decisions were Panchayat Teachers appointed by the respective Panchayats for whom a separate set of Rules were applicable, in which there was a remedy before the appellate authority. Insofar as the present petitioner-appellant is concerned, who was similar to those in the batch of Letters Patent Appeals, there is no power conferred on the appellate authority to examine the dismissal orders. In such circumstances, the writ petitions were sent back to the learned Single Judge by the Division Bench.



3. We respectfully follow the aforesaid Division Bench judgment in L.P.A. No. 255 of 2022 (arising out of C.W.J.C. No. 5489 of 2020) and others dated 18.1.2023 and remand the matter to the learned Single Judge without any observations on merits.

(K. Vinod Chandran, CJ)

(Partha Sarthy, J)

Harsh/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	04.10.2024
Transmission Date	

