

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6355 of 2024

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Awadhesh Prasad Mishra Son of Kanhaiya Prasad Mishra, Resident of Valmiki Nagar, Padrauna, P.O. and P.S.- Padrauna, District- Kushinagar (Uttar Pradesh)

... .. Petitioner/s

Versus

1. The State of Bihar through the Director, Secondary Education, Govt. of Bihar, Buddha Marg, Patna.
2. The Director, Secondary Education, Govt. of Bihar, Buddha Marg, Patna.
3. The District, Education Officer, Gopalganj.
4. The District Programme Officer (Establishment), Gopalganj.
5. Baba Bhoot Nath College, Bathua Bazar, Belepur, P.S.- Phulwariya, District- Gopalganj through its Principal.
6. The Principal, Baba Bhoot Nath College, Bathua Bazar, Belepur, P.S.- Phulwariya, District- Gopalganj.
7. Sri Prabhu Nath Tiwari, Son of Late Dina Nath Tiwari, Resident of Village- Anand Nagar, P.O.- Shahpur Shukl, P.S.- Baghauch Ghat, District- Deoria (U.P.).

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Bipin Bihari Singh, Advocate
For the Respondent/s : Mr. Government Pleader (26)

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL ORDER

2 18-11-2024 Heard learned counsel for the parties.

2. The present writ application has been filed for setting aside the order passed by District Appellate Authority, Gopalganj in Appeal No. 09/2023 Prabhu Nath Tiwari Versus The State of Bihar & Ors on 27.12.2023 reversing the order of



suspension dated 26.06.2018 with indication to conclude the proceeding and pay entitlement within 30 days in absence of proper consideration of facts, law, nature of relief and in absence of opportunity of hearing to him when he was contesting party and his name figured in Appeal as Respondent No. 12.

3 . At the outset, learned counsels appearing on behalf of the respondents raise preliminary objection to the maintainability of this writ application on the ground that petitioner has got alternative statutory remedy before the State Appellate Authority. It is further submitted that no reasons have been assigned as to why this writ application shall be heard by this Hon'ble High Court, even when alternative statutory remedy to move before the State Appellate Authority is available to the petitioner under Rule 14 of the Bihar State Teaching Institutions Teachers and Employees (Disputes Redressal and Appeal) Rules, 2020 (hereinafter referred to as 'the 2020 Rules'). Rule 14 of the 2020 Rules is quoted herein below :-

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 .

4. Learned counsel appearing on behalf of the petitioner is not in a position to dispute the contentions made on behalf of the respondent/s.

5. Considering the aforesaid facts and circumstances,



this writ petition is disposed of with direction to the petitioner to move before the State Appellate Authority by filing appeal.

6. It is needless to say that if such appeal is preferred by the petitioner, the State Appellate Authority shall proceed in the matter and dispose of the same, in accordance with law, after hearing the parties, by a reasoned and speaking order, as expeditiously as possible .

7. With the aforesaid observation and direction, this writ application stands disposed.

8 . It goes without saying that if any question of limitation arises before the competent authority, the same shall be considered, taking into consideration the fact that the petitioner was pursuing the issue before this Court.

(Prabhat Kumar Singh, J)

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