

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8184 of 2024

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1. Radhe Shyam Rana S/o Mr. Siya Sharan Yadav, R/o Village Kariho, P.S. Supaul, District Supaul.
 2. Dilip Kumar Diwana S/o Ramphal Prasad Yadav, R/o Village Kashimpur, P.S. Nauhatta, District Saharsa.

... .. Petitioner/s

Versus

1. The State of Bihar Through its Secretary Education Department, Govt. of Bihar, New Secretariat, Patna.
2. The Additional Chief Secretary, Education Department, Govt. of Bihar, New Secretariat, Patna.
3. The Director (Primary Education), Govt. of Bihar, New Secretariat, Patna.
4. The District Magistrate Supaul.
5. The District Education Officer, Supaul.
6. The District Programme Officer (Establishment), Supaul.
7. The Block Development Officer, Trivaniganj, Supaul.
8. The Block Education Officer, Triveniganj, Supaul.
9. The Panchayat Secretary, Gram Panchayat Raj, Maheshua, Block Trivenignaj, District Supaul.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Shashi Bhushan Kumar, Advocate
For the Respondent/s : Mr. Additional Advocate General (13)

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL ORDER

2 27-11-2024 Heard the parties.

2. This writ application has been filed for directing the respondents to pay the arrears of salary as well as current salary to the petitioners since December 2018 to till date.

3. Learned counsel for the petitioners submits that after following the due process of law and guidelines issued by the education department the petitioners were selected against



the vacant sanctioned post of basic grade panchayat teacher. Petitioners joined their respective posts and started discharging their duties with satisfaction of concerned authority. The Head Master of the school sent absentee month to month basis and then salary of the petitioners were paid but all of sudden their salary has been stopped since December 2018 to till date and thereafter, petitioners and others filed appeal before District Appellate Authority, Supaul which was allowed *vide* order dated 05.02.2018 and bank was directed to pay arrears of salary with interest (Annexure-4). It is further submitted that against the aforesaid order, the respondent authority filed appeal before the State Appellate Authority bearing Appeal No. 433/2018 which was also dismissed (Annexure-P/5). He next submits that despite the orders of District Appellate Authority and State Appellate Authority, salary of the petitioners has not been paid till date.

4. At the outset, learned counsel for the State raises preliminary objection on the maintainability of writ petition. 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 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. 50,000/- (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.”

5. 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 petitioners have got statutory alternative remedy before the 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.

6. Needless to state here that the issue of limitation, if any, arises, the same may be considered as the petitioners were pursuing the matter before this Court under Article 226 of the Constitution of India.

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

(Prabhat Kumar Singh, J)

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