

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7521 of 2024

Shiv Ranjan Kumar Singh Son of Sri Nand Lal Singh, Resident of Ward No. 13, P.S.- Mohania, District Kaimur, Bihar- 821109.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. The Principal Secretary, Education Department, Government of Bihar, Patna.
3. The Director, Secondary Education, Government of Bihar.
4. The Regional Deputy Director, Patna Division, Patna.
5. The District Education Officer, Patna.
6. Dayanand High School, Patna, through its Principal-cum-Secretary, Mithapur, Patna.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Kumar Kaushik, Advocate
For the Respondent/s : Mr. Government Advocate 08

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL ORDER

2 25-11-2024 Heard the parties.

2. This writ application has been filed for the following reliefs:

i. For issuance of an order, direction or a writ of mandamus for directing the respondent authorities to implement the order contained in Memo No. 414 dated 09.12.2019 passed by the District Teachers Appellate Authority, Patna in Appeal Case No. 88/ 2017 whereby and where under the Learned District Teachers Appellate Authority has been pleased to set aside the order passed by the respondent authorities by which the approval of the appointment of the petitioner in Dayanand High School, Mithapur, Patna, an Aided Minority School, was refused while further directing the respondents to approve the petitioner's appointment as Teacher in the aforesaid school.



ii. For issuance of an order, direction or a writ of mandamus for directing the respondent authorities in the Education Department to approve the appointment of the writ petitioner with effect from the date of joining, i.e., 03.07.2015 in Dayanand High School, Mithapur, Patna, an Aided Minority School.

iii. For issuance of an order, direction or a writ of mandamus for directing the respondent authorities in the Education Department to make payment of salary to the Petitioner with effect from the date of joining i.e. 03.07.2015 in Dayanand High School, Mithapur, Patna an Aided Minority School in as much as the petitioner has been continuously working in the aforesaid school from the date of joining to 28.12.2023.

3. Learned counsel for the petitioner submits that since the respondent authorities did not comply with the order dated 09.12.2019 passed by the District Teachers Appellate Authority, petitioner filed an application invoking the powers of contempt before the District Teachers Appellate Authority *vide* application dated 23.09.2020 (Annexure-P9).

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 petitioner has 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 Appellate Authority.

6. 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 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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