

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8532 of 2023

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Rajesh Kumar Mandal Son of Sri Soti Lal Mandal, Resident of Village-
Kariyaut, P.S.- Laukahi, District- Madhubani.

... .. Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Education Department, Bihar, Vikas Bhawan, Baily Road, Patna.
2. The Director, Primary Secondary and Adult Education, Education Department, Bihar, Vikas Bhawan, Patna.
3. The District Magistrate, Madhubani.
4. The District Education Officer, Madhubani.
5. The District Program Officer (Establishment), Madhubani.
6. The Executive Officer-cum-Block Development Officer-cum-Secretary, Block Employment Unit, Laukahi, District- Madhubani.
7. The Block Education Officer-cum-Member, Block Employment Unit, Laukahi, District- Madhubani.
8. The Chairperson, Block Employment Unit, Laukahi, District- Madhubani.

... .. Respondents

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Appearance :

For the Petitioner/s : Mr.Ajay Kumar, Advocate
For the Respondent/s : Mr.Jitendra Kumar Roy 1 (SC 13)

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL ORDER

2 27-11-2024

Heard learned counsel for the parties.

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

(I) For setting aside of the impugned order dated 22.2.23 of the Block Development Officer-cum-Secretary, Block Employment Unit, Laukahi, which has been issued on the representation dated 24.12.22 of the petitioner addressed to the District Education Officer, Madhubani, who without taking decision himself asked the Block Development Officer, Laukahi for taking action in accordance with law, upon which the Block Development Officer has stated that the counseling dated 9.8.21 was



cancelled whereby, the petitioner was selected as a Sanskrit teacher for class-6 to 8, further on 14.6.22 it was conveyed selecting two others as Sanskrit teachers, but later on those were cancelled, as such now the 6th phase of selection process has completed, therefore, now there is not further any departmental instruction due to which by his end any action may be possible, whereas the petitioner has simply requested to accommodate him against the vacant post, as initially on 9.8.21 he was selected alone, thereafter two others were selected, appointed & subsequently terminated due to their fake certificates.

(II). For a further direction on the respondents to issue appointment letter in favour of the petitioner, as after removal of two Sanskrit teachers namely- Mahesh Yadav & Kameshwar Yadav on the ground of possessing irregular certificates, the position of petitioner is intact against the vacant posts of Sanskrit teachers based on the panel dated 30.7.21 (Annexure-6).

3. At the outset, learned counsel for the State raises preliminary objection and submits that the petitioner may seek remedy before the District Appellate Authority under Rule 13 of the Bihar State Teaching Institutions Teachers and Employees (Disputes Redressal and Appeal) Rules, 2020 which deals with the power and functions of the District Appellate Authority.

4. Learned counsel for the petitioner does not dispute this fact.

5. It is settled law that where a right or liability is created by a statute which gives a special remedy for enforcing it, the remedy provided by the statute alone must be availed of.



Since, the petitioner has statutory alternative remedy of appeal before the District Appellate Authority under Rule 13 of the Rules, 2020, this Court is not inclined to interfere in the matter in its extra-ordinary writ jurisdiction.

6. Accordingly, writ petition is disposed of with direction to the petitioner to file an appeal before the Appellate Authority. In the event such appeal is filed within four weeks from today, the same shall be disposed of with a reasoned order in accordance with law after hearing the parties within further eight weeks.

7. It goes without saying that if any question of limitation arises before the Appellate authority, the same shall be considered, taking into consideration the fact that the petitioner was pursuing the issue before this Court under Article 226 of the Constitution of India.

(Prabhat Kumar Singh, J)

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