

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7916 of 2023

Md. Tarique Anwar Son of Md. Suleman @ Mufati Sulaman, Resident of Village-Naua Nankar, P.O.-Bara Istamrar, P.S. Jokihat, District-Araira, at present Panchayat Teacher in Primary School Hardar, Gram Panchayat-Hardar, P.S.-Jokihat, District-Araira.

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary Education Department, Govt. of Bihar, Patna.
2. The Director Primary Education, Govt. of Bihar, Patna.
3. The District Education Officer, Araria, District-Araira.
4. The District Programme Officer (Establishment), District-Araira.
5. The Block Education Officer, Jokihat, District-Araira.
6. The Panchayat Secretary cum Secretary Panchayat Appointment Committee, Gram Panchayat Raj, Hardar Block and P.S. Jokihat, District-Araira.
7. The Mukhiya cum Chairman Panchayat Appointment Committee, Gram Panchayat Raj, Hardar Block and P.S. Jokihat, District-Araira.

... .. Respondent/s

Appearance :

For the Petitioner : Md. Ziaul Quamar, Advocate
For the State : Mr. Subhash Chandra Mishra, SC-16

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL ORDER

2 21-11-2024 Heard learned counsel for the parties.

2. This writ application has been filed for the following relief/s:-

“I. For issuance of the writ in the nature of mandamus to the respondents, set aside the removal/ dismissal order dated 28.04.2023 passed by Panchayat Secretary cum secretary panchayat appointment committee, Gram panchayat Raj Hardar Block-Jokihat District-Araira who cancelled the appointment of the petitioner on the basis that petitioner is not trained teacher so appointment cancelled according to C.W.J.C no.-16214/2019 (Ataur Rahman & ors vs. State of Bihar &



ors) by Hon'ble High Court Patna. But appointing authority not considered that petitioner is appointed on 05.12.2022 by said appointing authority after the judicial order of State Appellate Authority. Said dismissal order is illegal and fit to be set aside.

II. For also directed to respondents authority who reinstate the petitioner on his post as a panchayat teacher. Aforesaid order is illegal, without jurisdiction and against the natural justice because case of Ataur Rahman is not applicable against the petitioner because petitioner's appointment made by said authority after order of judicial. Before his appointment, panchayat authority also taken advice from higher officer. Then higher officer grant permission to appoint petitioner according to courts order.

III. For direction to respondents authorities to pay the salary of petitioner.

IV. To grant any other relief(s) to which the petitioner is found entitled in the eye of law.”

3. At the outset, learned counsel appearing on behalf of the State raises preliminary objection to the effect that an alternative Statutory remedy is available to the petitioner to move before the District Appellate Authority by way of filing appropriate application under Section 13 of Bihar State School Teacher (Appointment, Transfer, Disciplinary Proceedings and Service Conditions) Rules, 2020 (hereinafter referred as “Rules, 2020”), which deals with the power and functions of the District Appellate Authority.

4. Since the petitioner has got statutory alternative remedy to move 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.

5. In view of the aforesaid facts and circumstances, petitioner is directed to file an application before the District Appellate Authority in accordance with law.

6. In the event, such application is filed by the petitioner, the authority concerned is directed to 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 observations and directions, this writ application stands disposed of.

8. It goes without saying that if any question of limitation arises before the District 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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