

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11233 of 2023

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Gita Kumari @ Geeta Kumari Wife of Rajesh Ram, Daughter of Ram Narayan Ram, Resident of Village- Budhi, P.S. Kuchaikote, District- Gopalganj.

... .. Petitioner/s

Versus

1. The Union of India Through the secretary, Human Resources Development Department, New Delhi.
2. The Secretary, Human Resources Department, New Delhi.
3. The Additional Secretary, Human Resources Department, New Delhi.
4. The Additional Secretary, Department of School Education and Literacy, Ministry of Human Resources Development, Government of India. Shashtri Bhawan, New Delhi.
5. The State of Bihar Through the Principal Secretary, Education Department, Government of Bihar, Patna.
6. The Director, Primary Education, Education Department, Government of Bihar, Patna.
7. The Chairman, Bihar School Examination Board, Patna.
8. The Secretary, Bihar School Examination Board, Patna.
9. The Examination Controller (Vividh), Bihar School Examination Board, Patna.
10. The Director State Council of Education Research and Training (SCERT) Mahendru, Patna-6.
11. The Regional Deputy Director of Education, Saran Division, Saran at Chapra.
12. The District Education Officer, Gopalganj.
13. The District Programme officer (Establishment), Gopalganj.
14. The Block Education officer, Kuchaikote Block, District Gopalganj.
15. The Panchayat Secretary, Gram Panchayat Raj, Rampur Madho, Kuchaikote Block, District Gopalganj.
16. The Mukhiya, Gram Panchayat Raj, Rampur Madho, Kuchaikote Block, District- Gopalganj.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Javed Aslam, Advocate
For the Respondent/s	:	Mr.Kameshwar Kumar, GP 17
for BSEB		Mr. Girijesh Kumar, Advocate

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL ORDER



2 09-12-2024

Heard learned counsel for the parties.

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

(I) To quash the order vide Memo No. 13 dated 13.04.23 issued by the respondents No. 15 & 16, whereby they have terminated the services of the petitioner in compliance of the order issued by director primary education its letter no. 7/Mu 1-268/2022 12, dated 05.01.23 and letter no. 57 dated 07.01.23 issued by District Programme officer Establishment, Gopalganj as well as letter no. 27 dated 11.01.23 issued by Block Education Officer, Kuchaikote, whereby and where under services of the petitioner has been terminated. (Annexure-8).

(II) To quash the letter No. 7/Misc-79/2019, 978 dated 13.11.2020 of the respondent No. 6, whereby and where under all the District Education officers/District Programme officers of the state of Bihar have been directed to take steps for termination of all the untrained teachers working in government schools, who have not passed in D.El.Ed Examination. (Annexure-7).

(III) To quash the letter No.7/Misc-42/2017-1422 dated- 22.10.19 of the respondent No. 6, whereby all the District Education Officers of State of Bihar were directed to submit within a week the details of steps taken by them for terminating the services of untrained teachers working in government schools who have not acquire qualification of B.Ed. or Diploma in Elementary Education (D.El.Ed) by 31.03.2019. (Annexur-6).

(IV) To allow the petitioner to appear in the Diploma in Elementary Education (D.El.Ed) examination in the next forth coming sessions.

(V) To extending the time period for submission of training certificate (D.El.Ed) of the petitioner in as much as it has been stipulated by D.O. No.17-2/2017-EE.17 dated- 03.08.2017 of the Additional Secretary (EE), Government of India. (Annexure-4).

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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