

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10698 of 2023

Smt. Babita Kumari Baby @ Babita Kumari Baby Wife of Sacchidanand Yadav, Resident of village-Gadhiya, Ward No-10, P.S. Kumarkhand, Block-Kumarkhand, District- Madhepura, Bihar (852112).

... .. Petitioner

Versus

1. The State of Bihar Through the Principal Secretary Education Department, Government of Bihar, Patna.
2. The Director, Primary Education, Department of Education, Government of Bihar, Patna.
3. The District Magistrate, District-Madhepura.
4. The District Education Officer, District-Madhepura.
5. The District Programme Officer (Establishment), District- Madhepura.
6. The Block Education Officer, under block Kumarkhand, District-Madhepura.
7. The Mukhiya, under block Kumarkhand, Block Kumarkhand, District-Madhepura.
8. The Panchayat Teacher Selection Committee, Under Block/Gram Panchayat Kumarkhand, District-Madhepura.
9. The Panchayat Secretary-cum-Member Secretary, Under Block/Gram Panchayat Kumarkhand, District-Madhepura.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Shekhar Kumar Singh, Advocate
For the Respondent/s : Mr. Subhash Chandra Mishra (Sc16)

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. For issuance of writ/writs, order/orders, direction/directions in the nature of certiorari for quashing the impugned Letter No-29 dated-27.04.2023 issued by the Panchayat Secretary-cum-Member Secretary, under gram panchayat Kumarkhand, Block- Kumarkhand, District-Madhepura whereby and whereunder the petitioner has been terminated from the post of panchayat teacher in view of the Hon'ble Court's Order passed in CWJC No-16214/2019 dated-19.10.2022 by the common questions of law have been decided



and the panchayat teachers appointed as untrained teachers by the concerned panchayat all those teachers were asked to complete their training within a period of 6 years for the reason that before 30.03.2019 they did not clear the course or that they have improved their ranking their services were sought to be terminated and the aforesaid order further shows that those who have failed and have not acquired training till the date of order passed by the Hon'ble High Court could not be allowed to continue as they are ineligible to teach and their services shall be terminated in terms of the order of the state government and as when they acquired training they will be free to participate in the subsequent selection which may be conducted by the state government and considering their path may grant them one time age relaxation therefore in view of aforesaid order passed by high court Patna in CWJC No-16214/2019 the petitioner has been terminated from the post of panchayat teacher.

II. For further prayed during the pendency of the writ petition may kindly stay the impugned letter No-29 dated 27.04.2023.

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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