

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11360 of 2023

Md. Ajaz Uddin @ Md. Ejazuddin Son of Late Nizamuddin, Resident of Village-Baghaily, P.O.-Mohrampur, P.S.-Jadia, District-Supaul, at present Secretary of Managing committee of Madrasa Nematia Baghaily, P.O.-Baghaily, P.S.-Jadia, District-Supaul Madrasa No. 263.

... .. Petitioner/s

Versus

1. The State of Bihar through Special Secretary cum Appellate Authority Secondary Education Department of Bihar, Patna.
2. The Special Director Education Department of Bihar, Patna.
3. The Bihar State Madrasa Education Board Patna through its Secretary Haroon Nagar, P.S.-Phulwari Sharif, District-Patna.
4. The Chairman, Bihar State Madrasa Education Board Patna, Haroon Nagar, P.S.-Phulwari Sharif, District-Patna.
5. The Secretary, Bihar State Madrasa Education Board Patna, Haroon Nagar, P.S.-Phulwari Sharif, District-Patna.
6. The District Education Officer Supaul, District-Supaul.
7. Abu Quaisar Rahmani, Son of Abu Jafar, Resident of Village-Baghail, P.O.-Mohrampur, P.S.-Jadia, District-Supaul. At present Hafiz in Madrasa Nematia Baghaily, P.O.-Baghaily, P.S.-Jadia, District-Supaul Madrasa No. 263.
8. Najim, Madrasa Jamia Rahmani Khanqah Munger, Bihar, Patna.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr.Md. Ziaul Quamar
For the Respondent/s	:	Mr.Subhash Chandra Mishra (Sc 16)
For the Madrasa Board	:	Mr. Shahzad Hassan Khan, Advocate

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL ORDER

2 09-12-2024 Writ application has been filed for the following reliefs :

“I. For quashing the order dated 06.09.2022 passed by Learned Special Secretary cum Appellate Authority, Education Department Bihar, Patna whereby and where under Special Secretary



illegally disposed the appeal of respondent no.-07 bearing appeal no.-10/2020 in the absent of petitioner who is appointing authority of the said respondent. Appellate Authority disposed appeal and directed to Madarsa Board to heard the matter and after proper verification passed reasoned order. Chairman of the Madrasa also not heard the petitioner.

II For also set aside the order dated 06.07.2023 passed by Chairman Madrasa Board and not intimate the petitioner as well as not heard the petitioner being appointing authority of the said teacher. He already dismissed the respondent no.-07 on the ground of forged date of birth after verification from concern madarsa of Respondent no.-08. Two reports regarding respondent no.-07's date of birth shows 20.12.1981 but respondent no.-07 manipulate the date of birth as 20.12.1982 through forged report. After dismissal by managing committee of petitioner, Chairman of the madarsa board also dismissed on 07.12.2019.”

2. 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 section 13 of the Bihar State School Teachers and Employees Disputes Redressal Rules, 2015 which reads as follows:-

“13. Power and functions of the District Appellate Authority:-

The District Appellate Authority shall hear and dispose of the complaints / appeals related to employment of Niyojit teachers, librarians and other Niyojit functionaries of Government / Nationalized elementary, secondary and higher secondary schools (including government aided /minority schools). It shall also hear and dispose of the disputes/appeals related to their service conditions. Besides, it shall also hear and dispose of the disputes related to service matter between management and teaching / non-teaching functionaries of non-government and non-aided schools functioning in the state.”

3. Learned counsel for the petitioner does not dispute the above proposition.

4. 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 section 13 of the Bihar State School Teachers and Employees Disputes Redressal Rules, 2015, this Court is not inclined to interfere in the matter in its extra-ordinary writ jurisdiction.

5. 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.

6. 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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