

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.12536 of 2023

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Mamta Kumari @ Mamta Devi Wife of Anil Kumar Singh Resident of
Village-Mohini, P.O.-Shivpur, P.S.-Mohini, District-Rohtas.

... .. Petitioner/s

Versus

1. The State of Bihar through District Magistrate, Bhojpur, Ara.
2. Heena Kumari Daughter of Kumar Rajendra Abhishek (Wife of Rajendra Abhishek), Resident of Village-Sehanda, Block-Tarari, District-Bhojpur.
3. District Education Officer, Bhojpur, Ara.
4. The Block Development Officer, Tarari, Bhojpur.
5. The Block Education, Officer, Tarari, Bhojpur.
6. The Mukhiya Gram Panchayat, Sedana, Block, Tarari.
7. The Panchayat Secretary, Gram Panchayat, Sedana, Block, Tarari.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Deepak Kumar Sinha, Adv.

For the Respondent/s : Mr.Madan Jeet Kumar (Gp 20)

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL ORDER

2 10-12-2024 Heard learned counsel for the petitioner and learned
counsel appearing on behalf of respondent/State.

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

“(i) To command and direct the respondents to appoint the petitioner on the post of Niyojit Teacher at Gram Panchayt Sedaha, Block Tarari, District – Bhojpur who was selected and placed at serial no. 52 in the merit list prepared in the year 2008 after proper counseling but all of the sudden Heena Kumari was appointed in place of petitioner being serial no. 52 in the merit list shown as daughter of Kumar Rajendra Abhishek though she is wife of Rajendra Abhishek.



(ii) *To further command and direct the respondent to cancel the illegal appointment of Heena Kumari, thereafter appoint the petitioner.*

(iii) *To direct the respondent to recover the salary and other consequential benefits from the Heena Kumari and subsequently salary and other consequential benefit be paid to the petitioner since the date of appointment of Heena Kumari.”*

3. At the outset, learned counsel for the State raises preliminary objection on the maintainability of writ petition and submits that the petitioner has got alternative remedy of filing appeal before the District Appellate Authority under Rule 13 of the Bihar State Teaching Institutions Teachers and Employees (Disputes Redressal and Appeal) Rules, 2020 (for short “Rules, 2020), which deals with *the power and functions of the District Appellate Authority*.

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

5. A Full Bench of this Court, in the case of *Dinesh Prasad Mandal vs. State of Bihar*, reported in **1984 PLJR 1002**, has held that the writ court is not the remedy of the first instance where others exist. It is the remedy of last resort. If the legislature, in its wisdom, provides an extensive machinery for settlement and adjudication, it is not for the High Courts to



override and nullify that mandate. Since, the petitioner has got statutory alternative remedy of filing 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 extraordinary writ jurisdiction.

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

7. Needless to state here that the issue of limitation, if any, arises, the same may be considered as the petitioner was pursuing the matter before this Court.

8. With above observation & direction, the writ petition stands disposed of.

(Prabhat Kumar Singh, J)

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