

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15622 of 2023

Nil Kamal Singh son of Late Ramkrishn Singh, Resident of Village-Dariapur
Police Station-Muffasil (Munger), District Munger. A present posted and
working as Prakhand Teacher in Govt. Middle School Rajala, Anchal-Jhajha,
District-Jamui Petitioner

Versus

1. The State of Bihar through the Chief Secretary, Govt. of Bihar, Patna.
2. The Additional Secretary-cum-the Principal Secretary, Education
Department, Government of Bihar, Patna.
3. The Director, Primary Education, Government of Bihar, Patna.
4. The Regional Deputy Director of Education, Munger Division, Munger.
5. The District Education Officer, Jamui.
6. The District Programme Officer (Establishment), Jamui.
7. The Block Education Officer, Jhajha, Jamui.

... .. Respondents

Appearance :

For the Petitioner/s : Mr.Umesh Kumar Mishra, Advocate
For the Respondent/s : Mr.Madhaw Pd. Yadaw (Gp23)

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL ORDER

2 17-12-2024 Heard learned counsel for the parties.

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

*(I).For issuance of an appropriate writ in the nature
of certiorari for quashing the letter no. 1013 dated 05.07.2023
issued under the signature of the District Programme Officer
(Establishment), Jamui addressing to all the Block Education
Officers, District Jamui, by which, a direction has been given
to submit a report of such teachers, who have been employed
on the basis of unrecognized Institutions and to recommend the
concerned Employment Unit for cancellation of their
employment and inform the undersigned accordingly, the
petitioner, who has been discharging his duties as Prakhand
Teacher since 2007 is aggrieved by the aforesaid direction, as
the petitioner's institution i.e. All India Correspondence
Coaching Society, Calcutta, West Bengal is also held by the
respondent authorities concerned as unrecognized even
though, in the past also, the salary of the petitioner was*



stopped vide letter no. 360 dated 22.03.2014 issued by the District Education Officer, Jamui and the petitioner challenged the aforesaid decision in the learned District Teacher Employment Appellate Authority, Jamui by filing Case No. 17/14 (Nil Kamal Singh vs. District Education Officer, Jamui and Anr.) and the learned Presiding Officer, District Teacher Employment Appellate Authority, Jamui has been pleased to pass the order in favour of the petitioner and, thereafter, the District Education Officer, Jamui has recalled his earlier letter no. 360 dated 22.03.2014 and has directed for continuance of the petitioner and has also directed for payment of withheld salary to the petitioner vide letter no. 155 dated 06.02.2016.

(II) For issuance of an appropriate writ in the nature of certiorari for quashing the letter no. 442 dated 18.09.2023 issued under the signature of the Block Education Officer, Jhajha, District Jamui in the light of the aforesaid order of the District Programme Officer (Establishment), Jamui contained in letter no. 1013 dated 05.07.2023, by which, the Block Education Officer, Jhajha, District Jamui has given a list of six teachers including the petitioner and has directed Block Panchayati Raj Officer-cum- the Executive Officer, Jhajha for cancellation of employment of such teachers and withholding of their salary, who have been appointed on the basis of the degree of unrecognized Institution without considering the fact that such dispute with regard to recognition of the training institution of the petitioner i.e. All India Correspondence Coaching Society, Calcutta has already been set at rest by the learned District Teacher Employment Appellate Authority, Jamui vide order dated 12.12.2014 passed in Case No. 17/14 (Nil Kamal Singh vs. District Education Officer, Jamui and Anr.) and since the aforesaid order of the learned District Teacher Employment Appellate Authority, Jamui has not been challenged at any point of time, such a direction for cancellation of employment of the petitioner and stoppage of his salary is not just and proper and furthermore, as per the NCTE Amendment Act, 2019 all such institutions are recognized, which are funded by the Central Government or the State Government or the Union territory Administration and (4) fulfil the conditions specified under clause (a) of sub-section (3), shall be deemed to have been granted permission by the Regional Committee".

(III). For issuance of an appropriate writ in the



nature of prohibition for restraining the respondent authorities concerned to not make any hindrance in proper functioning of the petitioner as Prakhhand Teacher in his respective school with payment of salary, as the petitioner has been appointed after following the due process of selection and at the time of his selection all the certificates of his educational qualification including the training certificate from All India Correspondence Coaching Society was verified and only thereafter he was allowed to join as Prakhhand Teacher and, therefore, raising such an issued after such a long period, is not just and proper more so when the said issued has already been decided by the learned District Teacher Employment Appellate Authority, Jamui in favour of the petitioner.

IV. For issuance of an appropriate writ in the nature of mandamus for commanding and directing the respondent authorities concerned to allow the petitioner to continue on his respective post without any hindrance with all consequential benefits i.e. salary etc, which has arbitrarily been directed to be withheld since the month of September, 2023, as such a direction is arbitrary and non-sustainable in the eyes of law, as similar issue regarding validity of teacher training certificate granted by All India Correspondence Coaching Society, Calcutta or its affiliated colleges has been held valid by the Hon'ble Jharkhand High Court in WP(s) 5412/2005 dated 15.05.2016 and by the Division Bench of the said Hon'ble High Court in L.P.A. No. 400/06 vide order dated 24.11.2006 and the same has been affirmed upto the Hon'ble Supreme Court in S.L.P. No. 4396 of 2007 dated 14.05.2007.

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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