

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16156 of 2023

Rabindra Yadav Son of Late Baleshwar Yadav, resident of Village-Masoma, Mausme, Police Station-Bhadaur, District-Patna, at present posted and working as Prakhanda Teacher in Govt. Middle School Budhikhar, 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.Jitendra Kumar Roy (Sc 13)

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL ORDER

2 18-11-2024 Heard learned counsel for the parties.

2. IA No.1 of 2024 has been filed for amendment of prayer of the petitioner. Learned counsel for the petitioner submits that during pendency of the writ petition order contained in memo no. 8 dated 05.01.2024 has been issued under the signature of the Block Panchayati Raj Officer- cum- Executive Officer, Jhajha, by which in the light of the letter no. 1013 dated 05.07.2023 and the meeting of the Block Teacher Employment Unit, Jhajha dated 03.01.2024, the services of the petitioner has been cancelled without considering the fact that the petitioner has been continuing in service since 2007 and he is on the verge of retirement, on the ground that the certificate of B.Ed. of the petitioner is not recognized.



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 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.”

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

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 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.

6. Accordingly, writ petition is disposed of with direction to the petitioner to file an appeal before the Appellate Authority. In the event, if 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.

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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