

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17307 of 2024

Seema Kumari @ Sima Kumari W/o Sri Amrendra Kumar Thakur R/ of Village and P.O.- Kanta, P.S.- Gaighat, District- Muzaffarpur, at present posted as Panchayat Teacher (Incharge Headmaster) at Government Primary School, Kanta (Girls), Block- Gaighat, District- Muzaffarpur.

... .. Petitioner/s

Versus

1. The State of Bihar through the Additional Chief Secretary, Education Department, Government of Bihar, Patna.
2. The Additional Chief Secretary, Education Department, Government of Bihar, Patna.
3. The Director, Primary Education, Education Department, Government of Bihar, Patna.
4. The District Education Officer, Muzaffarpur, District- Muzaffarpur.
5. The District Programme Officer, Secondary Education, Muzaffarpur, District- Muzaffarpur.
6. The District Programme Officer, Establishment (Education), Muzaffarpur, District- Muzaffarpur.
7. The Block Education Officer, Gaighat, District- Muzaffarpur.
8. The Panchayat Secretary - Cum - Member Secretary, Panchayat Teacher Employment Unit, Kanta Pirauchha, South, Block- Gaighat, District- Muzaffarpur.
9. Manoj Kumar Singh, S/o Chandrakishore Singh, R/O Village- Ramnagar, P.O.- Susta Tok, P.S.- Gaighat, District- Muzaffarpur, at present working as Panchayat Teacher at Government Primary School Kanta (Girls), Block- Gaighat, District- Muzaffarpur.
10. Laxmi Devi, W/O Subash Chandra Thakur, R/o Village and P.O.- Kanta, P.S.- Gaighat, District- Muzaffarpur, Pin Code- 847107.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Mrityunjay Kumar, Adv.
For the Respondent/s : Mr. AC to Standing Counsel 25

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL ORDER

2 18-11-2024 Heard learned counsel for the petitioner and learned
A.C. to Standing Counsel – 25.

2. This writ application has been filed for following



relief(s) :-

(i) For issuance of a writ in the nature of Certiorary or any other appropriate writ/order/direction to quash/set-aside the Letter No 22, dated 21.05.2024, issued by the District Programme Officer, Secondary Education, Muzaffarpur, to the District Education Officer, Muzaffarpur, by which an enquiry report with regard to the issue of Incharge Headmaster of Government Primary School, Kanta (Girls), Block Gaighat, District-Muzaffarpur, has been submitted which is based upon oral submissions of Respondent Nos - 9 and 10 and without consideration of the documentary evidence which is kept in record of the school.

(ii) To quash/set-aside the Letter No 1814, dated 07.08.2024, issued by the District Education Officer, Muzaffarpur to the Secretary, Kanta Pirauchha South, Block Gaighat, District Muzaffarpur, by which it has been directed to take action with regard to posting of the petitioner at Primary School Satanwara, Block - Gaighat, District - Muzaffarpur.

(iii) To quash/set-aside the Letter No 1808, dated 07.08.2024 issued by the District Education Officer, Muzaffarpur, to the Block Education Officer, Gaighat, District - Muzaffarpur by which it has been directed to make sure the process of take-over and hand over of the charge of the Primary School, Kanta (Girls) between Sima Kumari (Petitioner) and Manoj Kumar Singh (Respondent No - 9).

(iv) To quash/set-aside the follow-up Office-order contained in Memo No 464, dated 12.08.2024, issued by the Block Education Officer, Gaighat, District Muzaffarpur, whereby and whereunder petitioner has been directed to hand-over the complete charge of Government Primary School, Kanta (Girls) to Sri Manoj Kumar Singh (Respondent No 9) within 24 hours.

(v) To allow the petitioner for working as Incharge Headmaster of the Government Primary School Kanta (Girls), Block - Gaighat, District - Muzaffarpur, till the appointment of permanent Headmaster at the school, as the petitioner is Senior to Sri Manoj Kumar Singh (Respondent No - 9)."

3. At the outset, learned counsel for the State raises preliminary objection on the maintainability of writ petition 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 (for short “Rules, 2020), 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 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 District Appellate Authority, Muzaffarpur. If such appeal is filed within four weeks from today, the same shall be disposed of by a reasoned order in accordance with law after hearing the parties within a period of eight weeks from the date of filing of such appeal.

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)

anay

U			
---	--	--	--

