

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16590 of 2023

=====

Mamta Kumari Daughter of Shri Bhuneshwar Singh, Resident of village-
Medhuka Kala, Near Yamuniya Baba Mandir, Police Station- Sahajitpur
District-Saran at Chapra.

... .. Petitioner/s

Versus

- 1 . The State of Bihar through the Chief Secretary, Govt. of Bihar, Patna.
- 2 . The Additional Chief Secretary-cum-Principal Secretary, Education Department, Govt. of Bihar, Patna.
- 3 . The Director, Primary Education, Education Department, Govt. of Bihar, Patna.
- 4 . The District Magistrate, Siwan.
- 5 . The Sub Divisional Officer, Maharajganj, District- Siwan.
- 6 . The District Education Officer, Siwan.
- 7 . The District Programme Officer (Establishment), Siwan.
- 8 . The Prakhand Pramukh-cum- the Chairman of Prakhand Teachers Employment Unit, Bhagwanpur Hat, District- Siwan.
- 9 . The Block Development Officer, Bhagwanpur Hat, District- Siwan.
- 10 . The Block Education Officer, Bhagwanpur Hat, District- Siwan.
- 11 . The Block Panchayati Raj Officer, Bhagwanpur Hat, District- Siwan.

... .. Respondent/s

=====

Appearance :

For the Petitioner/s	:	Mr. Umesh Kumar Mishra, Advocate
For the Respondent/s	:	Mr. Subhash Chandra Mishra (Sc16)
		Mr. Madhukar Mishra, AC to SC 16

=====

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL ORDER

2 28-11-2024 Heard learned counsel for the parties.

2. The present writ application has been filed for the
following reliefs :-

*(i) To direct the respondent
authorities concerned to consider the
case of the petitioner for her selection
as Prakhand Teacher in Bhagwanpur
Hat Block against the sanctioned and
vacant post of under 2008 rule, as she*



had applied for her selection for science subject but in spite of having the requisite qualification to be selected. Appointed as Prakhanda Teacher, she has not been given selection letter till date whereas, as per the knowledge and information to the petitioner to the post of science teacher is still vacant.

(ii) To direct the respondent authorities concerned to consider the case of the petitioner sympathetically and issue selection letter in her favour against the sanctioned and vacant post of block teacher for the science subject in the Bhagwanpur Hat Block as the posts of science teacher in the aforesaid block is till vacant and the petitioner possesses the requisite qualification to be selected / appointed as Prakhanda Teacher in the aforesaid block .

(iii) To direct the respondent authorities concerned to provide the information of the status of her application along with a certified copy of her application submitted for the post of Prakhanda Teacher in Bhagwanpur Hat for the teacher's selection 2008, as in spite of repeated request and representation and in spite of repeated request and representation and in spite of information under the Right to Information Act, 2005 , the same has not been provided till date .

(iv) For issuance of an appropriate writ as an alternative prayer of the petitioner as the learned District Teacher Employment Appellate Authority, Siwan even though is functional but not entertaining the appeal of the petitioner and, hence for ends of



justice , the learned District Teacher Employment Appellate Authority , Siwan may kindly be directed to accept and consider the appeal of the petitioner and dispose of the same with reasoned and speaking order ventilating the genuine grievance of the petitioner for her selection on the post of Block Teacher for Science Subject in Bhagwanpur Hat, District – Siwan .

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)

Koushik/-

U			
---	--	--	--

