

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17394 of 2024

Md Zoober Alam @ Md. Jubair, Son of Md. Abdul Mannan Resident of
Village- Nanani/ Pair, Post Office- Nanani Pair, Police Station- Dhoraiya,
District- Banka.

... .. Petitioner/s

Versus

1. The State of Bihar through the Additional Chief Secretary, Education Department, Govt. of Bihar, Patna.
2. The Director, Primary Education, Education Department, Govt. of Bihar, Patna.
3. The District Magistrate, Banka.
4. The District Programme Officer (Establishment), Banka.
5. The District Education Officer, Banka.
6. The Block Education Officer, Block- Dhoraiya, District- Banka.
7. The Superintendent of Police, Vigilance Investigation Bureau, Patna.
8. The Secretary, Bihar School Examination Board, Patna.

... .. Respondent/s

Appearance :

For the Petitioner	:	Mr. Balram Kapri, Advocate
For the State	:	Mr. Standing Counsel (16)
For the BSEB (Resp.8)	:	Mr. Kumar Shanu, Advocate
For Respondent no. 7	:	Mr. Anil Singh, Law Officer (Vig.)

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL ORDER

2 18-11-2024 Heard learned counsel for the petitioner and learned
counsel appearing on behalf of respondents.

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

“(i) For issuance of writ in the nature of Certiorari to quash the Letter No. 08 dated 28.04.2023 whereby and whereunder the petitioner was discharged from the service on the ground of forged educational certificate whereas the certificate of the petitioner is not forged and the Bihar School Examination Board certified that the certificate of the petitioner is genuine but that had not been considered till date by the Respondent Authorities and the order of discharge has been passed.

(ii). For a direction to the respondent authorities to reinstate the petitioner with all consequential benefits on the post of Panchayat Teacher as his certificate is genuine and the allegation of forged educational certificate is



completely wrong in the light of the letter of the Bihar School Examination Board, Patna.

(iii). For a direction to the respondent authorities to make payment of salary to the petitioner for the post of Panchayat Teacher from December, 2018 to till date as without any reason the payment of the petitioner has been withheld from December, 2018 and on 28.04.2023 order of discharge has been passed against the petitioner on a non-est ground.

(iv). For any other relief/reliefs if the petitioner found entitled in the facts and circumstances of the present case.”

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 deals with the power and functions of the District Appellate Authority.

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, Banka. 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 ten 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)

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