

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2527 of 2020

=====

Madhu Bala Ranjan, Wife of Uma Shankar Prasad, Resident of Village-
Changodih, P.S.- Khaira, District- Jamui.

... .. Petitioner/s

Versus

1. The State of Bihar .
2. The Secretary Secondary and Primary Education Govt. of Bihar, Patna.
3. The Director Primary Education, Bihar, Patna.
4. The District Magistrate, Jamui.
5. The District Superintendent of Education, Now D.P.P., Jamui.
6. The Block Development Officer, Barhat.
7. Mukhiya, Gram Panchayat Raj Bariyarpur, Block and P.S. Barhat, District-
Jamui.
8. The Panchayat Secretary, Gram Panchayat, Bariyarpur, Block and P.S.
Barhat, District- Jamui.
9. Seema Kumari, D/o Viranchi Mandal, Resident of Village- NImarang, P.S.
and District- Jamui.
10. Manju Kumari, D/o Chandrika Yadav, Resident of Village- POatauna, P.S.
and District- Jamui.

... .. Respondent/s

=====

Appearance :

For the Petitioner/s	:	Mrs. Anisha Sinha, Advocate Mr. Rajesh Kumar Sinha, Advocate
For the State	:	Ms. Namrata Singh, Ac to GA-12
For the respondent	:	Mr. Anupa Nand Jha, Advocate Mr. Pramod Kumar, Advocate

=====

CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL ORDER

8 08-07-2025 Heard Mrs. Anisha Sinha, learned counsel along

with Mr. Rajesh Kumar Sinha, learned counsel appearing on

behalf of the petitioner; Ms. Namrata Singh, learned Ac to GA-

12 for the State and Mr. Anupa Nand Jha, learned counsel

appearing on behalf of the Respondent/s.

2. The petitioner in paragraph no. 1 of the present writ



petition has sought, *inter alia*, the following relief(s), which is reproduced hereinafter:-

“(i) For quashing the impugned order dated 24.04.2019 passed by the State Appellate Authority (Education Department, Bihar) Patna in Appeal No. 174/2018 as well as impugned order dated 15.03.2012 passed in Case No. 97/2011, passed by the District Teacher Appellate Authority, Jamui whereby and whereunder the claim/case/appeal of this petitioner has been rejected only on the ground that the representation of the petitioner regarding complain has not contained any receiving and claim is time barred which is error of record as there is postal receipt (Registered) dated 15.12.2006 as such the impugned order are not sustainable in the eye of law and fit to be quashed.

ii. For a direction to the respondent to appoint to the petitioner on the post of Panchayat Teacher after cancelling the selection of the Respondent no. 9 and 10.

iii. To grant any other relief for which the action is entitle to get in the eye of law.”

3. At the outset, learned counsel appearing on behalf of petitioner submitted that the order dated 24.04.2019 passed by the State Appellate Authority in Appeal No.174 of 2018, against the impugned order dated 15.03.2012 passed in Case No. 97/2011 by the District Teacher Appellate Authority, Jamui is not sustainable, as the same has been passed by the Officer of Indian Administrative Service. The Tribunal quorum provided under Rule 4(3) of the ***Bihar State School Teachers and Employees Disputes Redressal Rules, 2015*** (hereinafter referred to as the ‘Rules, 2015’) has not been fulfilled. Learned counsel has relied upon a judgment dated 23.05.2025 passed in



CWJC no.7081 of 2021 (*Vidyasagar Kushwaha & Anr. vs. The State of Bihar and Ors.*) by this Court.

4. I find that the State Appellate Authority consists of a quorum as per the provision of Rule 4(3) of the Rules, 2015 , which is reproduced hereinafter:

“4(3). The State Appellate Authority shall be constituted at State level consisting of two persons only (hereinafter each referred as the separate chairperson) who will be appointed by the State Government for hearing the appeal against the order passed by the District Appellate Authorities. One chairperson will be a retired Justice of Hon'ble High Court and another will be a retired officer of Indian Administrative Service not below the rank of Principal Secretary. The State Government may authorise the Chairperson of one State Appellate Authority to discharge the functions of the Chairperson of another State Appellate Authority.”

5. Now the question arises, whether the Chairperson, who has passed the order, has been appointed in accordance with the provisions of Rule 4(3) of the Rules, 2015? The aforesaid statutory Rule binds the State Government to constitute a State Appellate Authority, consisting of two persons, out of which Chairperson shall be a retired judge of the Hon'ble High Court and another person shall be a retired officer of Indian Administrative Service, not below the rank of Principal Secretary. In the present case, order has been passed by the Chairperson, who is not retired justice of the Hon'ble High



Court, but he is an officer of the Indian Administrative Service. I find that the aforesaid order dated 24.04.2019 cannot be sustained for two reasons, firstly absence of quorum as provided under Rule 4(3) of the Rules, 2015 and secondly the Chairperson can only be a retired Judge of the Hon'ble High Court. The Rule 4(3) of the Rules, 2015 is also supported by the decision of the Apex Court, in case of ***State of Gujarat Vs. Utility Welfare Association*** reported in ***(2018) 6 SCC 21 : 2018 SCC OnLine SC 368***, wherein, in paragraph nos.117 and 118, the following order has been passed, which, *inter alia*, is as follows:-

“117. In Madras Bar Assn. [Madras Bar Assn. v. Union of India, (2014) 10 SCC 1] (MJ-II), the Constitution Bench, referring to the decision in Madras Bar Assn. [Union of India v. Madras Bar Assn., (2010) 11 SCC 1] (MJ-I) observed that members of tribunals discharging judicial functions could only be drawn from sources possessed of expertise in law and competent to discharge judicial functions. We are conscious of the fact that the case (MJ-I) dealt with a factual matrix where the powers vested in courts were sought to be transferred to the tribunal, but what is relevant is the aspect of judicial functions with all the “trappings of the court” and exercise of judicial power, at least, in respect of same part of the functioning of the State Commission. Thus, if the Chairman of the Commission is not a man of law, there should, at least, be a member who is drawn from the legal field. The observations of the Constitution Bench in Madras Bar Assn. [Madras Bar Assn. v. Union of India, (2014) 10 SCC 1] (MJ-II) constitute a declaration on the concept of basic structure with reference to the concepts of “separation of powers”, “rule of law” and “judicial review”. The first question raised before the Constitution Bench as to whether judicial review was part of the basic structure of the Constitution was, thus, answered in the affirmative.



118. We are, thus, of the view that it is mandatory to have a person of law, as a member of the State Commission. When we say so, it does not imply that any person from the field of law can be picked up. It has to be a person, who is, or has been holding a judicial office or is a person possessing professional qualifications with substantial experience in the practice of law, who has the requisite qualifications to have been appointed as a Judge of the High Court or a District Judge."

Any person, from the field of law or holding the law degree, cannot hold the post of Chairperson, who don't possess qualification to have been appointed as judge of the High Court or the District Court.

6. Taking note of the above facts and discussion made hereinabove and law laid down by the Apex Court in the case of ***State of Gujarat (Supra)***, the impugned order dated 24.04.2019 passed by the Chairperson of the State Appellate Authority can only be held to be without jurisdiction and as such, the same is hereby set-aside and quashed. In view of the direction/observation contained in order dated 25.03.2025 passed in CWJC No.7081 of 2021, corrective measures in accordance with law, as per the provision of Rules, 2015 is required to be taken by the Sate Government.

7. The matter is remitted back to the State Appellate Authority. The Chairman of the State Appellate Authority having jurisdiction must ensure to dispose of the appeal



expeditiously, in accordance with law without being prejudiced by the order dated dated 24.04.2019 passed by the State Appellate Authority in Appeal No.174 of 2018 (Annexure 9).

8. The petitioner should not be allowed to suffer as a result of order without jurisdiction.

9. Accordingly, the present writ application stands disposed of.

10. Interlocutory Application(s), if any, also stands disposed of.

(Purnendu Singh, J)

Niraj/-

U			
---	--	--	--

