

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.154 of 2025

In

Civil Writ Jurisdiction Case No.2354 of 2025

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1. The State of Bihar through the Additional Chief Secretary, Education Department, Government of Bihar, Patna, Bihar.
 2. The Additional Chief Secretary, Education Department, Government of Bihar, Patna, Bihar.
 3. The Director, Primary Education, Education Department, Government of Bihar, Patna, Bihar.
 4. The District Education Officer, Sitamarhi, District - Sitamarhi.
 5. The District Programme Officer (Establishment), Sitamarhi, District-Sitamarhi.
 6. The Block Teacher Employment / Appointment Committee, Nanpur, Block-Nanpur, District- Sitamarhi, through its Member Secretary - cum- Block Development Officer, Nanpur, District- Sitamarhi.
 7. The Block Teacher Employment / Appointment Committee, Runni Saidpur, Block - Runni Saidpur, District- Sitamarhi, through its Member Secretary - cum- Block Development Officer, Runni Saidpur, District- Sitamarhi.
 8. The Block Teacher Employment / Appointment Committee, Parihar, Block - Parihar, District- Sitamarhi, through its Member Secretary - cum- Block Development Officer, Parihar, District- Sitamarhi.
 9. The Block Teacher Employment / Appointment Committee, Bathnaha, Block - Bathnaha, District- Sitamarhi, through its Member Secretary - cum-Block Development Officer, Bathnaha, District- Sitamarhi.
 10. The Chairman, Block Teacher Employment / Appointment Committee - cum- Block Pramukh (Panchayat Samiti), Nanpur, Block - Nanpur, District-Sitamarhi.
 11. The Chairman, Block Teacher Employment / Appointment Committee - cum- Block Pramukh (Panchayat Samiti), Runni Saidpur, Block - Runni Saidpur, District- Sitamarhi.
 12. The Chairman, Block Teacher Employment / Appointment Committee - cum- Block Pramukh (Panchayat Samiti), Parihar, Block- Parihar, District-Sitamarhi.
 13. The Chairman, Block Teacher Employment / Appointment Committee - cum- Block Pramukh (Panchayat Samiti), Bathnaha, Block - Bathnaha, District - Sitamarhi.
 14. The Member Secretary, Block Teacher Employment / Appointment Committee - cum- Block Pramukh (Panchayat Samiti), Nanpur, Block - Nanpur, District- Sitamarhi.
 15. The Member Secretary, Block Teacher Employment / Appointment Committee - cum- Block Pramukh (Panchayat Samiti), Runni Saidpur, Block - Runni Saidpur, District- Sitamarhi.
 16. The Member Secretary, Block Teacher Employment / Appointment



Committee - cum- Block Pramukh (Panchayat Samiti), Parihar, Block -
Parihar, District- Sitamarhi.

- 17. The Member Secretary, Block Teacher Employment / Appointment
Committee - cum- Block Pramukh (Panchayat Samiti), Bathnaha, Block -
Bathnaha, District- Sitamarhi.
- 18. The Block Education Officer, Nanpur , Block - Nanpur, District- Sitamarhi.
- 19. The Block Education Officer, Runni Saidpur, Block - Runni Saidpur,
District- Sitamarhi.
- 20. The Block Education Officer, Parihar, Block - Parihar, District- Sitamarhi.
- 21. The Block Education Officer, Bathnaha, Block - Bathnaha, District-
Sitamarhi.

... .. Appellant/s

Versus

- 1. Hriday Narayan Bharti Son of Ram Kalewar Sah, Resident of Village -
Samhauli, P.O. - Vishanpur, P.S. - Pupri, District- Sitamarhi.
- 2. Rinki Kumari D/o Ashok Jha, W/o Chandan Kumar Mishra, Resident of
Village - Basant, P.O. - Kharka, P.S. -Jalley, District- Darbhanga.
- 3. Rashmi Riva D/o Ram nandan Singh, W/o Nishant Shekhar, Resident of
Mohalla - Rasulpur Zilani, Lenin Chowk Near - Honda Show room P.S. -
Kazi Mohammadpur District- Muzaffarpur.
- 4. Hemant Kumar S/o Mahendra Kumar, Resident of Village - Malahi, P.S. -
Sursand, District- Sitamarhi.
- 5. Nidhi Singh D/o Arun Kumar Singh, Resident of Madhesara, P.O. -
Madhesara, P.S. - Sonbarsa, District- Sitamarhi.

... .. Respondent/s

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Appearance :

For the Appellant/s	:	Mr. P.K. Shahi, Sr. Adv. Mr. K.P. Yadav, GP-11 Mr. Santosh Chandra Bhaskar AC to GP-11 Mr.Kritya Nand Jha (Ac To Gp 11)
For the Respondent/s	:	Mr.

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CORAM: HONOURABLE THE ACTING CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL JUDGMENT
(Per: HONOURABLE THE ACTING CHIEF JUSTICE)

Date : 14-02-2025

The defects pointed out by the Stamp Reporter is

hereby ignored.



2. Under extremely urgent circumstances, a mention was made in the morning by the learned Advocate General for posting L.P.A No. 154 of 2025 which was filed only today in the Registry.

3. While hearing a writ petition captioned CWJC No. 2354 of 2025, which was posted before the learned Single Judge on the first day on 13.02.2025, an order was passed asking the counsel for the State to inform and request Additional Chief Secretary, Education Department, Government of Bihar to be present in the Court on the same day in the second half of the Court working hours.

4. The Court was informed that because of some miscommunication and absence of any written order on record, such a direction could not be complied with.

5. The learned Single Judge held it to be contumacious enough to declare it to be contempt of Court and apart from referring to the merits of the case, directed the Additional Chief Secretary to appear before



the Court on 14.02.2025 at 2:15 PM without fail.

6. Expressing strong reservations against such an order having been passed on the first day of the hearing of the case, notwithstanding the merits of the case, it was urged before us that there is a process delineated by way of Standard Operating Procedure (SOP) in terms of the judgment rendered by the Supreme Court in the ***State of Uttar Pradesh & Ors. Vs. Association of Retired Supreme Court and High Court Judges at Allahabad & Ors. 2024 (2) BLJ 106 SC***, wherein it has been enumerated as to under what circumstances, personal presence of the Officers of Government could be asked for.

7. The SOP clearly identifies three different types of adjudication namely, (i) evidence based adjudication; (ii) summary proceedings and (iii) non-adversarial proceedings. While hearing non-adversarial proceedings, the SOP illustrates, a Court might require presence Government official to understand any complex policy or



technical issue which the Law Officers of the Government would not be able to address. Similarly in evidence based adjudication involving evidence such as documents or oral statements wherein also a Government official would be required to be physically present for testimony or to present relevant documents and the governing statute with respect to the procedure would be the Code of Criminal Procedure, 1973.

8. Other than in cases falling under these two categories, the issues could always be addressed through affidavits and other documents, thus obviating the necessity of any physical presence of the officers.

9.The SOP does not preclude a Court from calling the officer, where it is *prima facie* satisfied that specific information is not being provided or is being intentionally withheld or if correct position is being suppressed or is being misrepresented.

10. A proscription, therefore, has been sounded that the Courts should not direct the presence of officials



solely because the officials stance is different from the Court's view. In such cases, if the matter could be resolved based on existing records, it should be decided on merits accordingly.

11. Even with respect to calling for the personal presence of the officer, certain procedure has been delineated namely that the Court should allow, as a first option, the officer to appear before it through video conferencing.

12. Whenever a personal presence of an official is directed, reason should be recorded as to why such presence is required.

13. Due notice for any personal appearance giving sufficient time for such appearance must be served in advance to the official which would enable him to come prepared and render assistance to the Court for proper adjudication of the matter for which he is summoned.

14. Other procedures also have been laid down.

15. It appears from the order dated 13.02.2025



that the matter was taken up in the first half of the Court proceedings and the officer concerned was asked to appear in the second half, which directions, for some reason or the other, could not be complied with.

16. We consider it to be completely unnecessary to hold non-appearance of the officer in the second half of the Court proceedings to be contemptuous in any manner whatsoever. Nonetheless, we are of the view that the learned Single Judge ought to have given some time to the officer by fixing another date, which might not be in distant future but time sufficient enough for the officer to prepare himself on the facts of the case for his personal appearance before the Court.

17. Even otherwise, we do not find any urgency in the matter or the necessity of the officer being summoned with such urgent dispatch.

18. However, without discussing the merits of the case and without unnecessarily commenting upon the contents of the order appealed against, we request the



learned Single Judge to fix a date for appearance, sometimes later but only after being satisfied that the presence of the officer would be required and the averments made in the affidavit filed on his behalf would not be sufficient.

19. We further request the learned Single Judge not to insist for the presence of the officer on 14.02.2025 as directed by order dated 13.02.2025.

20. The appeal stands disposed of accordingly.

(Ashutosh Kumar, ACJ)

(Partha Sarthy, J)

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AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	14.02.2025
Transmission Date	N/A

