

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4487 of 2025

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Kumari Sarika W/o Sandeep Kumar Ojha R/o Vill.- Manihari Paschim Tola,
P.O. Manihari, P.S. Manihari, Dist. Katihar.

... .. Petitioner/s

Versus

1. The State of Bihar through its Secretary, Education Department, Govt. of Bihar, New Secretariat, Patna.
2. The Additional Chief Secretary, Education Department, Govt. of Bihar, New Secretariat, Patna.
3. The Director Secondary Education, Govt. of Bihar, New Secretariat, Patna.
4. The Director (Primary Education), Govt. of Bihar, New Secretariat, Patna.
5. The District Magistrate, Katihar.
6. The District Education Officer, Katihar.
7. The District Program Officer (Establishment), Katihar.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Shashi Bhushan Kumar, Advocate

For the State : Mr. Mujtabul Haque, GP 12

Mr. Vasant Vikas, AC to GP 12

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CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH

ORAL JUDGMENT

Date : 20-03-2025

Heard Mr. Shashi Bhushan Kumar, learned counsel appearing on behalf of the petitioner and Mr. Mujtabul Haque, learned GP 12 along with Mr. Vasant Vikas, learned AC to GP 12 for the State.



2. Petitioner has *inter alia* prayed for following reliefs in the paragraphs No.1 of the writ petition:-

“(I) To quash the memo no.417 dated 30.01.2025 issued by the District Program Officer (Establishment), Katihar whereby and whereunder objection raised that History (Hons.), Social Science and Home Science is taught in graduation, which contrary to the qualification prescribed for a hindi teacher in Advertisement No.27/2023 and further directed that in case of non receipt of satisfactory certificate or reply in relation to the objections, the appointment is cancelled in the light of clause 9(II) of Advertisement no.27/2023 of Bihar Public Service Commission and amount given under the head of salary etc. will be recovered under the provisions of Bihar and Orissa Public Demand Recovery Act 1914 and other legal action will be taken. A copy of memo dated 30.1.2025 is annexed herewith and marked as Annexure-P/1 to this application.

(ii) To direct the respondent authority not to disturb the petitioner in discharging his duty as a Hindi school teacher in upgraded High School Hasanganj, Block Hasanganj, District Katihar

And/or any other appropriate relief(s) to the petitioners for which they may found entitle under the fact and circumstances of the case.”

3. Brief facts of the case is that pursuant to Advertisement No.27/2023 for the post of appointment as a school teacher in Middle school (Class 6-8), petitioner applied and after scrutiny of application from, the Bihar Public Service Commission issued admit card to the petitioner. Thereafter, the petitioner appeared and he was declared successful candidate under EWS category. On 13.01.2024, the respondent no.6 issued provisional appointment letter to the petitioner and on 08.02.2024, the petitioner was posted in upgraded High School Surapartal and she was discharging her duty. All of a sudden, the



District Programme Officer (Establishment), Katihar, issued memo No.417 dated 30.01.2025 seeking show cause from the petitioner, as to why, in view of the condition contained in Clause 9(II) of Advertisement No.27/2023 her appointment should not be terminated. Petitioner is aggrieved by the show cause and action contemplated under Bihar and Orissa Public Demand Recovery Act for recovery of the salary allegedly paid.

4. The learned counsel appearing on behalf of the petitioner submitted that as per the Advertisement clause 2 (A), the minimum educational and training qualification for appointment of school teachers of classes 6 to 8 is graduation or post graduation with at least 50% marks and B.Ed and the petitioner passed the post graduation exam with Hindi subject and also holds B.Ed. Qualification and therefore, the impugned order dated 30.01.2025 is illegal and the same is contrary to advertisement.

5. *Per contra*, learned counsel for the State failed to explain when Bihar State School Teacher (Appointment, Transfer, Disciplinary, Action and Service Conditions) Rules, 2023 (hereinafter referred to as the “Rules, 2023”) has been made applicable to the teachers appointed after holding open examination by the BPSC, who have been been selected as



State teachers. Action against a State teacher is required to be taken as per the prescribed procedure of Rules, 2023.

6. Heard the parties.

7. The action of the District Programme Officer (Establishment), Katihar, as contained in memo No.417 dated 30.01.2025 seeking show cause from the petitioner, as to why, in view of the condition contained in Clause 9(II) of Advertisement No.27/2023, her appointment should not be terminated and recovery of salary already paid to her should not be made. In accordance with the provision of Rules, 2023, the petitioner, who has been selected as State teacher and worked cannot be terminated without following due procedure for alleged illegal appointment. The show cause containing charges in prescribed form “K” has not been served as per the prescribed procedure laid down under Rule 17 of the Bihar Government Servants (Classification, Control & Appeal) Rules, 2005 for imposing major punishment of termination as per the requirement of Rule 14 of Rules, 2023.

8. The District Programme Officer (Establishment) who has taken action against the petitioner has acted without jurisdiction even if the appointment of the petitioner is provisional. For terminating an employee,



mandate of Article 311(2) of the Constitution of India has to be followed. The Memo No.417 dated 30.01.2025 issued by the District Programme Officer (Establishment), Katihar being without jurisdiction is hereby set aside and quashed.

9. The writ petition is allowed.

(Purnendu Singh, J)

Sanjay/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	28.03.2025
Transmission Date	NA

