

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4735 of 2023

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Rajeev Kumar Mishra Son f Late Bhairav Mishra Resident of Vilalge and
P.O.-Sabha Sasaula, Police Station Suppi, District-Sitamarhi.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Education, Government of Bihar, Patna.
2. The Director, Primary Education, Bihar, Patna.
3. The Regional Deputy Director of Education, Tirhut Division, Muzaffarpur.
4. The District Education Officer, Sheohar.
5. The District Programme Officer (Establishment), Sheohar.
6. The District Establishment Committee its Chairman -Cum District Magistrate, Sheohar.
7. The Headmaster, Primary School, Bakhar Chandiha Purnahiya, District-Sheohar.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Pramod Kumar, Advocate Mr. Sumit Jha, Advocate
For the Respondent/s	:	Mr. Prabhakar Jha (Gp27) Mr. Shankar Kumar Thakur, Advocate

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CORAM: HONOURABLE MR. JUSTICE NANI TAGIA
ORAL ORDER

3 01-08-2025 Heard Mr. Sumit Jha, learned counsel for the petitioner and Mr. Shankar Kumar Thakur, learned counsel for the respondents.

2. The petitioner who was appointed on 02.12.2002 as Assistant Teacher on compassionate ground has filed this writ petition challenging the order dated 30.06.2020, vide Memo No. 838 issued by District Programme Officer (Establishment) whereby, the petitioner's services as Assistant Teacher has been terminated on the ground that the petitioner does not posses

Teachers Training Certificate.

3. Respondent No. 4/ the District Education Officer, Sheohar has filed a counter affidavit wherein, while stating that the petitioner's service was terminated, because the petitioner was untrained teacher, has made a reference to the decision of this Court rendered in CWJC No.16214 of 2019 (***Md. Ataur Rahman & Others Vs. The State of Bihar & another***), though the decision in the writ petition is subsequent to the date on which the petitioner was terminated, to contend that in the aforesaid writ petition the Court has directed to dispense with the services of those teachers who do not possess Bachelor of Education Degree or in service Teachers Training Certificate.

4. Learned counsel for the petitioner has submitted that the aforesaid decision rendered by this Court in the writ petition mentioned above was put to challenge in LPA No. 748 of 2022 which LPA was decided by Full Bench of this Court on 20.03.2024. While adjudicating the aforesaid LPA in paragraph-39 thereof this Court had observed as under:-

“... 39. We were also faced with an argument of compassionate appointments having been made of persons in the post of teachers, who are to be continued. Even those appointees cannot seek absolution from the rigor of obtaining the teachers

training qualification before the date provided by the legislation. If the State so wills, on termination, considering the appointment having been given on compassionate grounds, they could be adjusted against lower vacancies as ministerial staffs or Class IV category as permitted by the rules of the State Government. However, without acquiring the minimum qualification as provided under Section 23(1), that too within the prescribed period, there is no question of their continuance as teachers...”

5. Learned counsel for the petitioner has submitted that this writ petition may be disposed of in light of the observation made in paragraph-39 of the LPA No. 748 of 2022 by the Full Bench of this Court.

6. On perusal of observation made in the paragraph-39 in the LPA it has been provided that insofar as the appointments made on compassionate ground *vis-a-vis* the requirement of teachers training qualification, it has been observed that if the State so wills, on termination, considering the appointment having been made on compassionate ground, they could be adjusted against lower vacancies as ministerial staffs or Class-IV category as permitted by the Rules of the State Government.

7. Since the Full Bench of this Court in the LPA mentioned above has made an observation with regard to the teachers appointed on compassionate grounds who have been terminated from the service, this writ petition is hereby disposed off with a direction to the respondents to consider the case of the petitioner in light of the observation made in paragraph-39 of the LPA No. 748 of 2022 vide judgment dated 20.03.2024 by the Full Bench of this Court.

8. The writ petition stands disposed of with the above direction.

(Nani Tagia, J)

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