

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11087 of 2021

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Kanchan Mishra @ Kanchan Tiwary D/o Sri Rameshwar Mishra resident of Village Ahiyapur Braitha, Anchal Vijayipur, P.O. and P.S. Vijayipur, District Gopalganj.

... .. Petitioner/s

Versus

1. The State of Bihar through the Director, Primary Education, Govt. of Bihar, New Secretariat, Patna.
2. The District Education Officer, Gopalganj.
3. The District Programme Officer (Establishment), Gopalganj.
4. The Block Education Officer, Vijayipur, P.O. and P.S. Vijayipur, District Gopalganj.
5. The Panchayat Secretary, Gram Panchayat Raj, Ahiyapur, Anchal Vijayipur, P.O. and P.S. Vijayipur, District Gopalganj.
6. The Head Master, Primary School, Braitha, Anchal Vijayipur, P.O. and P.S. Vijayipur, District Gopalganj.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Bipin Bihari Singh, Advocate
For the Respondent/s : Mr.Jitendra Kr. Roy 1 (Sc13)

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CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL ORDER

3 04-08-2025 Heard learned counsel appearing on behalf of the petitioner and learned counsel appearing on behalf of the State.

2. At the outset, learned counsel appearing on behalf of petitioner submitted that the order dated 07.05.2019 passed by the State Appellate Authority in Appeal No.164 of 2019 is not sustainable, as the same has been passed by the member who is the Officer of the Indian Administrative Service. He further submits that the Tribunal quorum as 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.

3. Learned counsel further submitted that the present writ petition is covered by the **judgment dated 17.04.2025 passed in CWJC No. 17508 of 2021 (Pradip Kumar Yadav & Ors. Vs. The State of Bihar & Ors.)**, wherein this Court relying upon the decision of the Apex Court, in the case of ***State of Gujarat Vs. Utility Welfare Association***, reported in ***(2018) 6 SCC 21 : 2018 SCC OnLine SC 368***, remitted back the matter to the State Appellate Authority for its reconsideration.

4. The State Appellate Authority consists of a quorum as per the provision of Rule 4 of the Rules, 2015, which is reproduced hereinafter:

“4. Composition of Appellate Authority –

(1) The District Appellate Authority shall consist of two persons only (herein after referred to as the presiding officer) to be appointed by the State Government. One presiding officer will be a retired officer of Bihar Judicial service and another will be a retired officer of Bihar Administrative service or Bihar Education Service.

(2) Notwithstanding anything contained in sub-section (1), the State Government may authorise the presiding officer of one Appellate Authority to discharge the functions of the presiding officer of another Appellate Authority.

(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. In view of the law laid down by the Apex Court in the case of ***Utility Welfare Association (supra) and the order dated 17.04.2025 passed by this Court in CWJC No. 17508 of 2021***, the matter is remitted back to the State Appellate Authority for its reconsideration. The order dated 07.05.2019 passed by the State Appellate Authority in Appeal No.164 of 2019 is set aside.

6. Accordingly, the present writ petition stands disposed of.

(Purnendu Singh, J)

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