

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6512 of 2022

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Chandra Bhushan Kumar son of Sri Deep Narain Rai, Resident of Village-Khoriya, P.S.-Pupri, District-Sitamarhi.

... .. Petitioner/s

Versus

1. The State of Bihar .
2. The Principal Secretary, Human Resources Development Department, Govt. of Bihar, Patna.
3. The District Magistrate, Sitamarhi.
4. The District Programme Officer (Establishment), Sitamrhi.
5. The Block Development Officer, Chorout, Sitamarhi.
6. The Block Education Officer, Chorout, Sitamarhi.
7. The Mukhiya, Gram Panchayat, Yadupatti, Block-Chorout, Sitamarhi.
8. The Panchayat Secretary, Yadupatti, Block-Chorout, Sitamarhi.
9. The Headmaster, Primary School, Dumarwana, Block-Chorout, District-Sitamarhi.
10. The Headmaster, Middle School, Mosirha (Urdu), Block-Chorout, District-Sitamarhi.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Shambhu Sharan Kumar, Advocate
For the State	:	Ms. Abhanjalli, Advocate
For Private Resp.	:	Mr. Dinkar Kumar, Advocate

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CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
ORAL JUDGMENT

Date : 16-01-2025

Heard learned counsel for the parties.

2. The present writ application is filed for the following reliefs:

(i) For quashing of judgment dated 17/02/2020 passed by learned Chairperson (Administrative), The State Appellate Authority, Patna, Bihar in Appeal No. 517 of 2018, whereby and where under the judgment and order dated 13/06/2011 in case No.



109 of 2010 passed by learned District Appellate Authority, Sitamarhi has been upheld and appeal of the petitioner has been disallowed.

(ii) For a direction to the respondent authority, directed to make payment of salary to the petitioner with effect from 16.06.2005 as Panchayat Shiksha Mitra and w.e.f. 01.07.2006 as Panchayat Teacher till date as the petitioner was appointed validly and he was discharging his duties till 10/09/2013 when he was elevated for joining in Primary School, Dumarwanna but in arbitrary manner his joining has not been accepted by the Respondent no. 9.

(iii) For necessary direction upon the respondent authorities to accept the joining of the petitioner as Panchayat Teacher in Primary School, Dumarwanna with all consequential benefits.

(iv) For that the petitioner may kindly deemed to be continued in its post as Panchayat Teacher till date, because of the fact that till date no termination letter has been issued or served him.

(v) For any other relief/reliefs to which the petitioner may be found entitle to in the facts and circumstances of the case.

3. The short fact of the present case is that the petitioner has been duly appointed as Panchayat Shiksha Mitra (hereinafter called PSM) on a contractual basis for eleven months in persuance of annexure 1 of the writ application vide letter no. 37 dated 07.07.2004 issued by the Employment Unit, Gram Panchayat Raj, Yadupatti. Later on, the petitioner resigned from the contractual



job as PSM vide resignation letter dated 12.05.2005 which was also approved by the Employment Unit.

4. The petitioner appointed unanimously decided as per his top merit position by virtue of Resolution No.5 taken by meeting of the Employment Unit on 14.05.2005, followed by issuing of appointment letter no.65 dated 14.05.2005 as PSM at Government Primary School, Dumarwana (annexure 5 of the writ application) as per submitted the roaster by date of appointment 18.05.2005 against unreserved male category and the prescribed form, page 33 of the annexure 4 series of the writ application along with relevant documents and allotment chart of the block wise/ panchayat wise against PMS as submitted to the authorities concerned and the petitioner joined vide letter dated 20.05.2005 (annexure 5/1 of the writ application) which was duly approved at the end of the office of the authorities. After 30 days of joining as Panchayat Shiksha Mitra, training was also imparted to the petitioner, the certificate of which (successful training certificate) has been issued by the In-charge, Training and Block Education Extension Officer, Pupri/Chrout vide letter no. 45 dated 28.06.2005 (annexure 6 of the writ application).

5. The Headmaster of the Government Primary School, Dumarwana, issued a letter of appreciation in favour of the petitioner and also requested the Mukhiya vide letter no.6 dated



20.05.2006 for the extension of service of the petitioner (Annexure 7 of the writ application). Thereupon a letter bearing no. 42 dated 21.05.2006, which was duly signed by the Mukhiya and a Panchayat Secretary was issued extending the services of the petitioner till further order (Annexure 7 and 7/1 of the writ application).

6. In view of the notification issued by the State Government for the appointment of Panchayat Sikshak, the post of Siksha Mitra was converted into Panchayat Shikshak and since the petitioner was working as Shiksha Mitra, he was converted as Panchayat Shikshak with effect from 01.07.2006 and working till date.

7. While working as Panchayat Shikshak, the petitioner was sent on deputation at the Utkarmit Madhya Vidyalay, Moshidha Urdu, Chorout vide Memo No. 414 dated 10.10.2007 issued by the Block Education Extension Officer, Chorout (Annexure 8 of the writ application).

8. On 23.10.2007, the petitioner was relieved from the Primary School, Dumarwana, and abiding by the orders, he submitted his joining in Utkarmit Madhya Vidyalay, Moshidha Urdu and he is discharging his duty in the said School till date. The fact is also apparent from the Teacher Posting details, 2009 issued by the Headmaster, Primary School, Dumarwana (Annexure 9 and 9/1 of the writ application).



9. Apart from the teaching work, the petitioner has also discharged several other works as directed by the higher authorities, such as B.D.O., Chorout and D.M. Sitamarhi, for instance, preparation of B.P.L list, Polling Officer in Parliamentary Election, Revised Family Survey etc. (Annexure 10 series of the writ application).

10. The petitioner has also undergone D.P.E. Programme conducted by the IGNOU as Government sponsored candidate vide Memo No. 247 dated 02.05.2009 issued by the D.S.E. Sitamarhi. The petitioner has also qualified in the elementary Teacher Evaluation Examination 2009 conducted by the Government for those teachers, who are in the service and has completed three years of service. (Annexure 11 of the writ application).

11. It is further stated that the petitioner has submitted his Attendance Certificate time to time before the respondent authorities but no action was taken for the payment of salary of the petitioner. The petitioner filed CWJC No. 9261 of 2009 before this court which was heard and disposed of by the order dated 23.09.2010 with a direction to the petitioner to file an appropriate application before the authority (Annexure 13 of the writ application). In pursuance to the direction of the Hon'ble High Court, the petitioner preferred an application bearing No. 109 of



2010 before the appellate authority on 21.10.2010 (Annexure 14 of the writ application).

12. Learned counsel for the petitioner further submits that the Appellate Authority rejected the appeal vide order dated 13.06.2011 without appreciating the relevant facts and records (Annexure 15 of the writ application).

13. The Tribunal did not acknowledge the fact that the Panchayat Secretary has made a false statement as the petitioner had brought all the documents on record by producing the entire document relating to the appointment done in the year 2004 and 2005, the details of charge report whereby the Panchayat Secretary, Ramchandra Rai hand over his charge to the new Panchayat Secretary, Ram Shreshth Rai. The documents which were transferred in the process of handing over the charge also included the documents related to appointment of the petitioner in the year 2005. The Panchayat Secretary, Ram Shreshth Rai, had also send a letter dated 16.09.2006 to the Headmaster, Primary School, Dumarwana, requesting therein to relieve the petitioner for B.P.L. work. The Panchayat Secretary had also issued the position of Shiksha Mitra till February 2006, but the Tribunal ignored the entire documents produced by the petitioner and solely relied upon the statement of the Panchayat Secretary. The Tribunal dismissed the application of the petitioner.



14. Thereafter, the petitioner filed a CWJC No. 12966 of 2011 before this Court which has also been disposed of vide order dated 12.07.2018 to avail all the alternative remedies before the learned State Appellate Authority. Thereafter, the petitioner filed an appeal before the State Appellate Authority bearing Appeal no. 517 of 2018 which was heard at length and the learned State Appellate Authority disallowed the appeal of the petitioner in mechanical manner upholding the order of the learned District Appellate Authority, Sitamarhi vide its order dated 17.02.2020 and further gave liberty to the petitioner to approach before the District Programme Officer (Establishment) Sitamarhi, for the payment of his salary for any period he worked as PSM/ Panchayat Teacher and not paid his salary, if such a representation is filed by the petitioner, the DPO (Establishment) may dispose of the representation, on the basis of available documents, in accordance with the provisions of the Employment Rules, 2006 within three months from the date of filing of the representation (Annexure 19 of the writ application). In light of the State Appellate Authority's order, the petitioner filed detailed representation before the District Programme Officer(Establishment), Sitamarhi on 24.02.2020 enclosing therewith all the relevant documents/papers in respect of his claim, but till date no step has been taken in the matter.



15. Learned counsel for the petitioner further submits that the petitioner has filed an application before the District Appellate Authority regarding the payment of the salary but District Appellate Authority dismissed the claim of the petitioner and also not considered this fact that the petitioner was initially appointed as Siksha Mitra and later, his post of Shiksha Mitra converted into Panchayat Teacher. The petitioner relied upon the judgement passed in LPA no. 1633 of 2012 passed by the Division Bench of this Court in which it was held that the Authority had no jurisdiction to entertain any dispute in relation to appointment of the Shiksha Mitras. It is well settled principle of law that where the Authority lacks the jurisdiction, no Authority or Court, much less by consent, can confer jurisdiction. Thus, jurisdiction exercise by the Authority, in the present case, was wholly incompetent”.

16. Learned counsel for the petitioner further relied upon the order passed in CWJC No. 10113 of 2007 with analogous cases and LPA no. 2096 of 2015 in which it was held that no authority can pass the order regarding the appointment of Shiksha Mitra.

17. Learned counsel for the State submits that the order of the District Appellate Authority and State Appellate Authority is legal and there is no illegality in the order passed by the authorities.

18. Considering the arguments of the parties and on perusal of the records, it is clear that the petitioner has filed an application



before the District Appellate Authority for the payment of salary but the concerned authorities had not decided it and held that the appointment of the petitioner was illegal as Shiksha Mitra. Considering the facts and circumstances and in view of the Judgement passed by this Court as aforesaid, the authorities have no power to pass the order regarding the appointment of Shiksha Mitra. Thus, the order dated 17.02.2020 passed by the State Appellate Authority and order dated 13.06.2011 passed by the District Appellate Authority are hereby quashed. Further, the authorities are directed to take the joining of the petitioner within four weeks. The petitioner is also entitled to the consequential benefits admissible to him in accordance with law.

19. With the aforesaid observations and directions, this writ application is allowed.

(Anjani Kumar Sharan, J)

priyanka/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	01.02.2025
Transmission Date	N/A

