

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11095 of 2021

1. Mukesh Kumar Son of Mahendra Prasad resident of Village - Louhdih, Post - Bishanpur, P.S. - Dumra, District- Sitamarhi, presently posted in Government High School Bairagania, District- Sitamarhi.
2. Shyam Kumar Son of Laxmi Singh resident of Village - Goghna, Post- Rashalpur, P.S. - Dumra, District- Sitamarhi, presently posted in Project Balika High School, Bairagania, District- Sitamarhi.
3. Dilip Kumar Son of Laxman Rai resident of Village - Talkhapur, Dumra, Bari Bazar, P.S. and District- Sitamarhi, presently posted in Government High School, Bairagania, District- Sitamarhi.

... .. Petitioner/

Versus

1. The State of Bihar
2. The Principal Secretary, Education Department, Government of Bihar, Patna.
3. The Director, Secondary Education, Education Department, Government of Bihar, Patna.
4. The District Magistrate, Sitamarhi.
5. The District Education Officer, Sitamarhi
6. The District Program Officer (establishment), Sitamarhi.
7. The Block Education Officer, Bairagania, District- Sitamarhi.
8. The Chairman, Nagar Panchayat Bairagania, District- Sitamarhi.
9. The Executive Officer, Nagar Panchayat, Bairagania, District- Sitamarhi.
10. Om Prakash Kumar Son of Harendra Choudhary Son of Harendra Choudhary, resident of Village Ashogi Chapra, Post- Bedaul, District- Sheohar.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Kripa Nand Jha, Advocate Ms. Sandhya Kumari, Advocate
For the Respondent/s	:	Mr. Madhukar Mishra, AC to SC 16

CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH



ORAL ORDER

4 04-08-2025 Heard learned counsel appearing on behalf of the petitioners and learned counsel appearing on behalf of the State.

2. At the outset, learned counsel appearing on behalf of petitioners submitted that the order dated 22.11.2018 passed by the State Appellate Authority in Appeal No.366 of 2017 (Annexure 16) 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 22.11.2018 passed by the State Appellate Authority in Appeal No.366 of 2017 (Annexure 16) is set aside.

6. Accordingly, the present writ petition stands



disposed of.

(Purnendu Singh, J)

Sanjay/-

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