

**IN THE HIGH COURT OF JUDICATURE AT PATNA**

**CIVIL REVIEW No.102 of 2025**

**In**

**Civil Writ Jurisdiction Case No.6715 of 2021**

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1. The State of Bihar through the Chief Secretary, Bihar, Patna.
  2. The Principal Secretary, Department of Human Resources Development (Department of Education), Government of Bihar, New Secretariat, Patna.
  3. The Principal Secretary, Department of Personal and Administrative Reforms Now Known as Department of General Administration, Government of Bihar, Old Secretariat, Patna.
  4. The Director, Secondary Education, Department of Human Resources Development (Department of Education), Government of Bihar, New Secretariat, Patna.
  5. The Director, Mass Education (Jan Shiksha)-cum-Additional Secretary, Department of Human Resources Development (Department of Education), Government of Bihar, New Secretariat, Patna.
  6. The Director (Administration)-cum-Additional Secretary, Department of Human Resources Development (Department of Education), Government of Bihar, New Secretariat, Patna.
  7. The Regional Deputy Director of Education, Saran Division, District- Saran at Chapra.
  8. The District Magistrate/Collector, Saran, District- Saran at Chapra.
  9. The District Education Officer, Saran, District- Saran at Chapra.
  10. The District Mass Education (Jan Shiksha) Officer, Saran, District- Saran at Chapra.
  11. The District Programme Officer (Establishment), Saran, District- Saran at Chapra.
  12. The District Programme Officer (Literacy), Saran, District- Saran at Chapra.
  13. The District Programme Officer (Planning and Account), Saran, District- Saran at Chapra.
  14. The District Treasury Officer, Saran, District- Saran at Chapra.
  15. The Principal Vishweshwar Seminary, Chapra Town, District- Saran at Chapra.

... .. Petitioner/s



Versus

Suresh Singh, Son of Late Nathuni Singh, Resident of Village- Suhaigajan,  
P.O- Suhai Sahpur, P.S- Baniyapur, District- Saran at Chapra.

... .. Opposite Party/s

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**Appearance :**

For the Petitioner/s : Ms. Binita Singh, SC-28  
Mr. Nishant Kumar Jha (Ac To Sc 28)  
For the Opposite Party/s : Mr. Nityanand Mishra, Advocate  
Mr. Abhishek Mishra, Advocate  
Mr. Alok Abhinav, Advocate

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**CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI**  
**ORAL ORDER**

- 4      29-08-2025      1. This is an application for review in accordance  
with the principle laid down in Section 114 of the Code of Civil  
Procedure read with Order XLVII Rule 1 of the Code of Civil  
Procedure.
2. Section 114 of the Code of Civil Procedure  
states: -

*“Subject as aforesaid, any person  
considering himself aggrieved—*

*(a) by a decree or order from  
which an appeal is allowed by this Code, but  
from which no appeal has been preferred.*

*(b) by a decree or order from  
which no appeal is allowed by this Code, or*



*(c) by a decision on a reference from a Court of Small Causes, may apply for a review of judgment to the Court which passed the decree or made the order, and the Court may make such order thereon as it thinks fit.”*

3. Thus, there are three grounds stipulated in Section 114, viz., where appeal is allowed but no appeal has been preferred. Secondly, where no appeal is allowed by the Code or by a decision on a reference from a Court of Small Causes.

4. Thus, the Respondent is entitled to a review when the Respondents do not file any appeal, where the appeal is allowed.

5. It is true that the Respondents did not file any appeal against impugned judgement, dated 26<sup>th</sup> of November, 2024. The application for review was filed on the ground that in L.P.A. No. 1489 of 2011, in C.W.J.C. No. 8481 of 2010, the Division Bench of this Court vide its judgement, dated 11<sup>th</sup> of August, 2015 held in paragraph no. 10: -

*“10. We would only like to add that the State policy in respect of*



*Supervisors be adopted mutatis mutandis with only addition that it would apply to the Instructors, who were found working for three years continuously, at the time when the non-formal education scheme was abolished, in which they were. The respondents/writ petitioners do not insist on Class III posts but submits that State Government should take them into service even on Class IV posts as per the vacancies available in different Departments. It surely cannot extend to people, who, at any distinct point of time, had worked for a short period and then left the work. They can have no legitimate claim in this regard.*

“

6. Thus, as per the judgement in L.P.A. No. 1489 of 2011, a candidate is entitled to get appointment if he works as an Instructor continuously for three years before the scheme is abolished.

7. It is contended by the State Respondents that the petitioner did not work as an Instructor for three years before the scheme came to an end.

8. Order XLVII Rule I of the CPC makes the detailed



provision of application for review of a judgement. Order 47

Rule 1 CPC runs thus:

*“ORDER XLVII – REVIEW*

*1. Application for review of judgment.*

*(1) Any person considering himself aggrieved-*

*(a) by a decree or order from which an appeal is allowed, but from which no appeal has been preferred,*

*(b) by a decree or order from which no appeal is allowed, or*

*(c) by a decision on a reference from a Court of Small Causes, and who, from the discovery of new and important matter or evidence which, after the exercise of due diligence was not within his knowledge or could not be produced by him at the time when the decree was passed or order made, or on account of some mistake or error apparent on the face of the record of for any other sufficient reason, desires to obtain a review of the decree passed or order made against him, may apply for a review of judgment to the Court which passed the decree or made the order.*



*(2) A party who is not appealing from a decree or order may apply for a review of judgment notwithstanding the pendency of an appeal by some other party except where the ground of such appeal is common to the applicant and the appellant, or when, being respondent, he can present to the Appellate Court the case on which he applies for the review.*

*Explanation-*

*The fact that the decision on a question of law on which the judgment of the Court is based has been reversed or modified by the subsequent decision of a superior Court in any other case, shall not be a ground for the review of such judgment.”*

9. A plain reading of the provision suggests that a review is maintainable where the aggrieved person from discovery of new and important matter or evidence, which after the exercise of due diligence, was not within his knowledge or could not be produced by him at the time when the decree was passed or made.

10. In the instant case, when the order in the writ



petition was passed on 26<sup>th</sup> of November, 2024, the order in L.P.A. No. 1489 of 2011 was already in existence and the Respondent would have placed the said order for consideration of this Court. No ground had been made out by the Respondents/Petitioners that they came to know about the orders, passed in L.P.A. No. 1489 of 2011 after the exercise of due diligence and it was not within the knowledge of the State Respondents. The State Respondents had the knowledge of the order because applying the principle laid down in paragraph 10 of the judgement passed in Letters Patent Appeal, the State Government disallowed number of applicants from getting service.

11. The second ground where review can be entertained by the Court is if the impugned order is bad on the ground of error apparent on the face of the record.

12. In the instant case, petitioner's case before the Writ Court was that he worked continuously for three years from 1988 to 1991.

13. On the other hand, the learned Advocate for the State in support of the review application submits that the



competent authority examined his pass-book and found that some amount from the government exchequer was credited to his account in the year 1995-1996 for work done in the year 1991.

14. Therefore, the dispute is absolutely a dispute of fact and issues of fact cannot be taken into consideration as errors apparent on the face of the record.

15. Order XLVII Rule 1 also states that an application for review can also be filed on any other sufficient reason.

16. It is decided in plethora of decisions that the term “any other sufficient reason” must be akin to the first two issues narrated in order XLVII Rule 1 (1).

17. The dispute that has been raised by the State Respondents in the instant review application relates to disputed question of fact which can only be decided either in the Writ petition or in the Appeal. Order XLVII, Rule 1 of the Code of Civil Procedure has no manner of application in the facts and circumstances of the instant case.

18. Therefore, the application for review is



considered and rejected.

19. However, the State Respondents are at liberty  
to pursue the appeal for appropriate relief.

20. The appearance of the concerned officer present  
in the Court stands dispensed with.

**(Bibek Chaudhuri, J)**

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