

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15220 of 2021

1. Om Prakash Mandal Son of Kishun Mandal, Resident of Near Primary School, Kharouni, P.S.- Jagdishpur, Dist. - Bhagalpur.
2. Vibhash Mandal, Son of Late Prasadi Mandal, Resident of Vill and P.O.- Simaria, P.S.- Kajraili, Dist. - Bhagalpur.
3. Jayshankar Prasad Singh, Son of Dhaneshwar Prasad Singh, Resident of Sadanandpur Baisa, Ward No. - 04, Near Shiv Mandir, P.S. Khalagaon, Dist. - Bhagalpur.
4. Binita Kumari, Wife of Jayshankar Prasad Singh, Resident of Sadanandpur Baisa, Ward No. -04, Near Shiv Mandir, P.S.- Kahalgaon, Dist. - Bhagalpur.
5. Renu Kumari, Wife of Hardeo Prasad, Daughter of Anandi Yadav, Resident of Village and P.O.- Danda Bazar, P.S.- Goradih, Dist. - Bhagalpur.
6. Vinay Kumar, Son of Late Ramanand Prasad, Resident of Vill.- Kemkha, P.O.- Basudevpur, P.S. - Kotwali, Dist. - Munger.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Education Department, Bihar, Patna.
2. The Block Development Officer, Sanhaura, Bhagalpur.
3. The Block Development Officer, Jagdishpur, Bhagalpur.
4. The Block Education Extension Officer, Sanhaura, Bhagalpur.
5. The Panchayat Secretary, Baura Pathakdih, District - Bhagalpur.
6. The Panchayat Secretary, Amdanda, District - Bhagalpur.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Bipin Bihari Singh, Advocate
Mr.Shyama Kant Singh, Advocate
For the Respondent/s : Mr.Prabhakar Jha (GP27)

CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH

ORAL JUDGMENT

Date : 07-08-2025

Heard Mr. Bipin Bihari Singh along with Mr. Shyama Kant Singh, learned counsels appearing on behalf of the petitioner and Mr. Prabhakar Jha, learned GP 27 for the State.

2. The petitioners in paragraph no. 1 of the present



writ petition has sought, *inter alia*, the following relief(s), which are reproduced hereinafter:-

“(i) For issuance of an appropriate order/s, direction/s and writ/s for quashing order dated 12.07.2021 passed by Hon'ble Chairperson (A), State Appellate Authority, Patna in Appeal No. 172/2019 whereby and under he was pleased to pass order as follows:- "From the facts and discussions given above, the Authority come to the conclusion that Hon'ble High Court in its order passed in CWJC No.7304/2013 has conclusively decided that degree of CBHE is not recognized in the State of Bihar. Neither the District Appellate Authority nor this Authority has the jurisdiction to pass any different order in this regard. Therefore, this Authority does not find any reason to interfere with the impugned order of District Appellate Authority and as such it is upheld and the appeal is disallowed.”

(ii) For issuance of an appropriate order/s, direction/s and writ's for quashing order 20.02.2019 passed in Appeal No 26/2018 and Appeal No. 30/2018 passed by District Appellate Authority (Department of Education, Govt. of Bihar) Bhagalpur whereby and under the Learned District Appellate Authority dismissed the appeal by holding as follows: "the cases of the appellants have, as already noted above, been dismissed by the Hon'ble Patna High Court in CWJC No. 7304/2013 on a consideration of the merits. Can this appellate Authority modify or reverse the order of the Hon'ble Court passed in CWJC NO. 7304/2013, for that is exactly what an order of the kind desired by the appellants in this set of petitions would amount to. I need scarcely say that my answer is a resounding 'No' The observation made by the State Appellate Authority in Appeal Case No. 443 of 2018 giving liberty to the appellants to move this Appellate Authority is perfectly innocuous in nature and cannot by any means be construed as intending to override the decision of the Hon'ble High Court in CWJC No. 7304 of 2013.”



(iii) For issuance of an appropriate order/s, direction/s and writ/s that after quashing order dated 20.02.2019 and 12.07.2021 passed by District Appellate Authority, Bhagalpur and State Appellate Authority, Patna, Certificates issued by CBHE, New Delhi be declared valid and legal and thereafter the petitioners may be reinstated as Teachers from the date they have been removed from service and give all consequential relief to them.

(iv) To pass such other order or orders as your lordships may deem fit and proper in the facts and circumstances of the case as stated herein below.”

3. At the outset, learned counsel appearing on behalf of petitioner submitted that the order dated 20.02.2019 passed in Appeal No.26/2018 and Appeal No.30 of 2018 by the District Appellate Authority (Department of Education) and order dated 12.07.2021 passed by the State Appellate Authority in Appeal No.172 of 2019 are not sustainable as the order dated 12.07.2021 has been passed by the Officer of Indian Administrative Service. The Tribunal quorum 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. Learned counsel has relied upon a judgment dated 25.03.2025 passed in CWJC no.7081 of 2021 (***Vidyasagar Kushwaha & Anr. vs. The State of Bihar and Ors.***) by this Court.

4. I find that the State Appellate Authority consists of



a quorum as per the provision of Rule 4(3) of the Rules, 2015 ,
which is reproduced hereinafter:

“4(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. Now the question arises, whether the Chairperson (A), who has passed the order, has been appointed in accordance with the provisions of Rule 4(3) of the Rules, 2015 ? The aforesaid statutory Rule binds the State Government to constitute a State Appellate Authority, consisting of two persons, out of which Chairperson shall be a retired Judge of the Hon'ble High Court and another person shall be a retired Officer of Indian Administrative Service, not below the rank of Principal Secretary. In the present case, order has been passed by the Chairperson (A), who is not retired justice of the Hon'ble High Court, but he is an Officer of Indian Administrative Service. I find that the aforesaid order dated 12.07.2021 cannot be sustained for two reasons- Firstly, absence of quorum as provided under Rule 4(3) of the Rules, 2015 and Secondly, the



Chairperson can only be a retired Judge of the Hon'ble High Court. The Rule 4(3) of the Rules, 2015 is also supported by the decision of the Apex Court, in case of ***State of Gujarat Vs. Utility Welfare Association*** reported in **(2018) 6 SCC 21 : 2018 SCC OnLine SC 368**, wherein, in paragraph nos.117 and 118, the following order has been passed, which is, *inter alia*, as follows:-

“117. In Madras Bar Assn. [Madras Bar Assn. v. Union of India, (2014) 10 SCC 1] (MJ-II), the Constitution Bench, referring to the decision in Madras Bar Assn. [Union of India v. Madras Bar Assn., (2010) 11 SCC 1] (MJ-I) observed that members of tribunals discharging judicial functions could only be drawn from sources possessed of expertise in law and competent to discharge judicial functions. We are conscious of the fact that the case (MJ-I) dealt with a factual matrix where the powers vested in courts were sought to be transferred to the tribunal, but what is relevant is the aspect of judicial functions with all the “trappings of the court” and exercise of judicial power; at least, in respect of same part of the functioning of the State Commission. Thus, if the Chairman of the Commission is not a man of law, there should, at least, be a member who is drawn from the legal field. The observations of the Constitution Bench in Madras Bar Assn. [Madras Bar Assn. v. Union of India, (2014) 10 SCC 1] (MJ-II) constitute a declaration on the concept of basic structure with reference to the concepts of “separation of powers”, “rule of law” and “judicial review”. The first question raised before the Constitution Bench as to whether judicial review was part of the basic structure of the Constitution was, thus, answered in the affirmative.

118. We are, thus, of the view that it is mandatory to



have a person of law, as a member of the State Commission. When we say so, it does not imply that any person from the field of law can be picked up. It has to be a person, who is, or has been holding a judicial office or is a person possessing professional qualifications with substantial experience in the practice of law, who has the requisite qualifications to have been appointed as a Judge of the High Court or a District Judge.”

Any person, from the field of law or holding the law degree, cannot hold the post of Chairperson, who don't possess qualification to have been appointed as Judge of High Court or the District Court.

6. Taking note of the above facts and discussion made hereinabove and law laid down by the Apex Court in the case of ***State of Gujarat (Supra)***, the order dated 20.02.2019 passed in Appeal No.26/2018 and Appeal No.30/2018 by the District Appellate Authority (Department of Education) and the order dated 12.07.2021 passed by the Chairperson (A) of the State Appellate Authority can only be held to be without jurisdiction and, as such, the same is hereby set-aside and quashed. In view of the direction/observation contained in order dated 25.03.2025 passed in CWJC No.7081 of 2021, corrective measures in accordance with law, as per the provision of Rules, 2015 is required to be taken by the Sate Government.

7. The matter is remitted back to the State Appellate Authority. The Chairman of the State Appellate Authority



having jurisdiction must ensure to dispose of the Appeal expeditiously, in accordance with law without being prejudiced by the order dated dated 12.07.2021 passed by the State Appellate Authority in Appeal No.172 of 2019.

8. The petitioner should not be allowed to suffer as a result of order without jurisdiction.

9. Accordingly, the present writ applications stand disposed of.

(Purnendu Singh, J)

chn/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	08.08.2025
Transmission Date	NA

