

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17508 of 2021

1. Pradip Kumar Yadav @ Pradeep Kumar Yadav Son of Yadu Nandan Yadav, Resident of Village- Inarva, Ward No. 4, P.O.- Jogeshwar Sthan, P.S.- Phulparas (Hulaspatti), District - Madhubani.
2. Rekha Kumari Daughter of Ram Bilash Yadav, Wife of Shashi Kapoor Yadav, Resident of Village - Amaiya, P.S.- Manigachhi, District - Darbhanga. At present Resident of Village- Jaughatta, Ward No. 14, P.O.- Harsinghpur, P.S.- Bahera, District - Darbhanga.
3. Anu Priya Rani, Daughter of Binay Kumar Thakur, Wife of Ajay Kumar Chaudhary, Resident of Village- Rampura Ward No. 1, P.S.- Singwara, District - Darbhanga.
4. Rambha Kumari, Daughter of Lal Bahadur Singh, Wife of Sanoj Kumar, Resident of Village- Pura, Ward No. 6, P.O.- Kawaria, P.S.- Sadar, District - Darbhanga.
5. Lalita Kumari, Daughter of Ram Eqbal Singh, Wife of Late Amrendra Kumar, Resident of Village- Thakur Konha, P.S.- Runi Saidpur, District - Darbhanga, at present Resident of Village - Vishwanath Patti, Ward No. 14, P.O.- Bharwara, P.S.- Singwara, District - Darbhanga.
6. Chaudhary Ram Kumar Rai, Son of Chaudhary Deo Chandra Rai, Resident of Village- Batho, P.S. Bahera, District - Darbhanga.

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Education Deptt., Bihar, Patna.
2. The District Education Officer, Darbhanga.
3. The District Programme Officer (Establishment), Darbhanga.
4. The Block Education Officer, Darbhanga.
5. The Presiding Officer (Judicial), District Appellate Authority, Darbhanga.
6. The Mukhiya, Gram Panchayat Raj- Khaira, Block - Bahadurpur, District - Darbhanga.
7. The Panchayat Secretary, Gram Panchayat Raj- Khaira, Block - Bahadurpur, District - Darbhanga.
8. Siya Sharan Yadav, Son of Surya Narayan Yadav, Resident of Village- Nadikat Diwari, P.O.- Kabariya, P.S. Sadar Darbhanga, District - Darbhanga.
9. Jagatpati Thakur, Son of Siyaram Thakur, Resident of Village and P.O.- Punhad, P.S.- Ghanshyampur, District - Darbhanga.
10. Rajesh Kumar Jha, Son of Ganesh Jha, Resident of Village - Mahinam, P.S.- Bahera, District - Darbhanga.
11. Ashok Kumar Amar, Son of Kishori Prasad Rai, Resident of Village - Diwari, P.S.- Sadar, District - Darbhanga.
12. Santosh Kumar Jha, Son of Arun Kumar Jha, Resident of Village- Kasraura, P.S.- Ghanshyampur, District - Darbhanga.



... .. Respondent/s

with
Civil Writ Jurisdiction Case No. 17406 of 2021

1. Pradip Kumar Yadav @ Pradeep Kumar Yadav, Son of Yadu Nandan Yadav, Resident of Village-Inarva, Ward No. 4, P.O.-Jogeshwar Sthan, P.S.-Phulparas (Hulaspatti), District-Madhubani.
2. Rekha Kumari, Daughter of Ram Bilash Yadav, Wife of Shashi Kapoor Yadav, Resident of Village-Amaiya, P.S.-Manigacchi, District-Darbhangha, at present Resident of Village-Jaughatta, Ward No. 14, P.O.-Harsinghpur, P.S.-Bahera, District-Darbhangha.
3. Anu Priya Rani, Daughter of Binay Kumar Thakur, Wife of Ajay Kumar Chaudhary, Resident of Village-Rampura, Ward No. 1, P.S. Singwara, District-Darbhangha.
4. Rambha Kumari, Daughter of Lal Bahadur Singh, Wife of Sanoj Kumar, Resident of Village-Pura, Ward No. 6, P.O.-Kawaria, P.S.-Sadar, District-Darbhangha.
5. Lalita Kumari, Daughter of Ram Eqbal Singh, Wife of Late Amrendra Kumar, Resident of Village-Thakur Konha, P.S. Runi Saidpur, District-Darbhangha, at Present Resident of Village-Vishwanath Patti, Ward No. 14, P.O. Bharwara, P.S. Singwara, District-Darbhangha.
6. Choudhary Ram Kumar Rai, Son of Chaudhary Deo Chandra Rai, Resident of Village-Batho, P.S.-Bahera, District-Darbhangha.

... .. Petitioner/s

Versus

1. The Block Education Officer, Bahadurpur, District-Darbhangha namely Kamaldeo Panjiyar, son of Ram Chaudhar Panjiyar, Resident of Village-Bara, P.O. and P.S.-Seharghat, District-Darbhangha.
2. The Panchayat Secretary, Gram Panchayat Raj, Khaira, Block-Bahadurpur, District-Darbhangha.
3. Jagatpati Thakur, son of Siyaram Thakur, Resident of Village and P.O.-Punhad, P.S.-Ghanshyampur, District-Darbhangha.
4. Rajesh Kumar Jha, son of Ganesh Jha, Resident of Village-Mahinam, P.S.-Bahera, District-Darbhangha.
5. Ashok Kumar Amar, son of Kishori Prasad Rai, Resident of Village-Diwari, P.S.-Sadar, District-Darbhangha.
6. Santosh Kumar Jha, son of Arun Kumar Jha, Resident of Village-Kasraura, P.S.-Ghanshyampur, District-Darbhangha.

... .. Respondent/s

Appearance :

(In Civil Writ Jurisdiction Case No. 17508 of 2021)

For the Petitioner/s : Mr. Mrigank Mauli, Sr. Advocate
Mr. Amish Kumar, Advocate



For the Respondent/s : Mr. Hitesh Suman, (Ac to SC 13)
(In Civil Writ Jurisdiction Case No. 17406 of 2021)
For the Petitioner/s : Mr. Mrigank Mauli, Sr. Advocate
Mr. Amish Kumar, Advocate
For the Respondent/s : Mr. Kaushal Kumar Jha, Advocate

CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL JUDGMENT

Date : 17-04-2025

Heard Mr. Mrigank Mauli, learned Senior Advocate
along with Mr. Amish Kumar, learned counsel appearing on
behalf of the petitioners; Mr. Hitesh Suman, learned Ac to SC
13 for the State and Mr. Kaushal Kumar Jha, learned counsel
appearing on behalf of the Respondent.

2. The petitioners in paragraph no. 1 of the present
writ petition have sought, *inter alia*, the following relief(s),
which is reproduced hereinafter:-

“(i) For quashing order dated 23.08.2021 passed in Appeal No 117 of 2019 and Appeal No.124 of 2020 (Annexure-8) by the Chairman (Administrative), State Appellate Authority, Education Department, Bihar, Patna whereby and where under he has allowed the Appeal filed by the Respondent No. 8 and set aside the order of the learned District Appellate Authority dated 15.12.2018 and all the 10 appointments including that of the Petitioners (Panchayat Teachers) has been cancelled. The concerned Panchayat Sachiv has also been directed to cancel all these appointment within a period of 15 days, other Respondents comprising District Education Officer and Block Education Officer are directed to ensure that the Panchayat Sachiv complies with these orders of the Authority within specified time. If needed, they will take help of District Magistrate in this matter who will cooperate with the District Education Officer when he approaches the District Magistrate in connection with compliance of this order. With this order both the Appeals are disposed of. No request has been made relating to payment or it's realization. So, no orders are being passed in this regard. Since, these cancelled appointments were made after the cut-



off date ordered by the State Government, no orders are being passed for any further action in the matter.

(ii) For direction to the respondents concerned not to implement the direction issued in order dated 23.08.2021 passed in Appeal No. 117 of 2019 and Appeal No.124 of 2020 (Annexure-8) during the pendency of the instant writ application.

(iii) For direction to the respondents concerned to allow the petitioners to discharge their duties without any interruption on the post of Panchayat Teacher in their respective schools.”

3. At the outset, learned Senior advocate appearing on behalf of petitioners submitted that the order dated 23.08.2021 passed by the State Appellate Authority in Appeal No.117 of 2019 (Annexure 8) with respect to petitioners of CWJC No.17508 of 2021 and in Appeal No.124 of 2020 with respect to petitioners of CWJC No.17406 of 2021 are not sustainable, as the same have 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 Senior Advocate has relied upon a judgment dated 23.05.2025 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, 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, who is not retired justice of the Hon'ble High Court, but he is an officer of the Indian Administrative Service. I find that the aforesaid order dated 23.08.2021 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, *inter alia*, is 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 the 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 impugned order dated 23.08.2021 passed by the Chairperson 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 23.08.2021 passed by the State Appellate Authority in Appeal No.117 of 2019 (Annexure 8) with respect to petitioners of CWJC No.17508 of 2021 and in Appeal No.124 of 2020 with respect to petitioners of CWJC



No.17406 of 2021.

8. The petitioners 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)

Ashishsingh/-

AFR/NAFR	
CAV DATE	NA
Uploading Date	18.04.2025
Transmission Date	NA

