

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.18216 of 2021

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Ajay Kumar Khan son of Sri Janardan Khan, resident of Village - Parri, P.S.-
Bangaon, District - Saharsa.

... .. Petitioner/s

Versus

1. The State of Bihar Bihar.
2. The Principal Secretary, Human Resources Department, Bihar, Patna.
3. The District Programme Officer, (Establishment), Saharsa.
4. The District Education Officer, Saharsa.
5. The District Panchayat Raj Officer, Saharsa.
6. The Block Development Officer, Simri Bakhtiyarpur Block, District - Saharsa.
7. The Chairman Panchayat Teacher Appointment Unit, Gram Panchayat Raj, Mohanpur, under Simri Bakhtiyarpur Block, District - Saharsa.
8. The Block Education Officer, Simri-Bakhtiyarpu Block, District - Saharsa.
9. The Panchayat Secretary/Sachiv, Gram Panchayat Raj Mohanpur, under Simri Bakhtiyarpur Block, District - Saharsa.
10. Nafis Alam Son of Md. Nazim, resident of Village and P.O.- Sitnabad, P.S.- Bakhtiyarpur, District - Saharsa.
11. Arun Kumar Yadav Son of Akhleshwari Prasad Yadav, resident of Village - Khapouti, Barsam, P.S.- Sour Bazar, District - Saharsa and presently posted as a Niyojit Teacher in Naya Prathmik School, Belatol Mohanpur, P.S.- Bakhtiyarpur, District - Saharsa.
12. Bipin Kumar Son of Murlidhar Prasad Yadav, resident of Village- Kopariya Salkhua, P.S.- Salakhua, District - Saharsa and presently posted as a Niyojit Teacher in Urdu Makbab Usrahi Mohanpur, P.S.- Bakhtiyarpur, District - Saharsa.
13. Subhash Kumar Bhagat son of Shiv Brat Bhagat, resident of Village - Simri Bakhtiyarpur, P.S.- Bakhtiyarpur, District - Saharsa and presently working as a Niyojit Teacher in Middle School Mohanpur, P.S.- Bakhtiyarpur, District - Saharsa.
14. Ajay Kumar Singh, Son of Kuldeep Prasad Singh, resident of Village- Mohanpur, P.O.- Balwahat, P.S.- Bakhtiyarpur, District - Saharsa.
15. Bijendra Kumar Son of Kapleshwar Prasad Yadav, resident of Village - Khopaiti Bargaon, P.S. and District - Saharsa.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Ratan Kumar, Advocate
For the Respondent/s : Mr. Kameshwar Kumar, (GP17)

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CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH



ORAL ORDER

4 29-07-2025 Heard Mr. Ratan Kumar, learned counsel appearing on behalf of the petitioner and Mr. Kameshwar Kumar, learned GP17 for the State.

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

“(A) Certiorari:-

(i) *For quashing the impugned order passed by the Chair Person (J), State Appellate Authority, Patna in Appeal No.131/2020 Ajay Kumar Khan versus The State of Bihar and others dated 05.07.2021 whereby and whereunder the said appeal of the petitioner has been disposed of with a direction to the petitioner to agitate his grievance before the appropriate authority, if any order adverse to him is passed by the Respondent Employment Unit pursuant to the order impugned in the present appeal.*

(ii) *For quashing the order dated 31.07.2020 passed by the District Teacher's Employment Appellate Authority, Saharsa (for short herein the District Authority) in Appeal No.40/17 Bijendra Kumar Versus The District Programme Officer (Establish-ment) Saharsa and others whereby and whereunder the appeal of the private Respondent no.15 has been allowed by the District Authority Saharsa stating therein that the order for non selection of the Respondent no.15 dated 20.11.2017 is not in accordance with law and directed the employment unit to pass necessary order in light of the order of the of the District Authority, Saharsa and also directed communicate the order to the District Authority with regard to employment of the Respondent no.15.*

B. Mandamus:

(i) *For respondents direction to the for not disturb authorities the petitioner who has been appointed by the employment unit pursuant to the order passed by this Hon'ble High Court in C.W.J.C. No.5211/2010 (Annexure-18).*

(ii) *For the issuance of any other writ or writs, order or orders to which the petitioner is found to be entitled to in the facts and circumstances of the case.”*

3. Learned counsel appearing on behalf of petitioner



submitted that the petitioner being aggrieved by the action of the Mohanpur Gram Panchayat, under Simri Bakhtiyarpur Block, District – Saharsa, which is the appointing unit of the petitioner. Even though the petitioner have fulfilled all the requisite qualification and being more meritorious than the other candidates in the unreserved category, he was not selected on the post of Panchayat Teacher in the Gram Panchayat. The petitioner being aggrieved by the said action of the appointing unit preferred CWJC No.11581 of 2008 (Annexure 4 to the writ petition) and this Court after hearing all the parties *vide* order dated 12.06.2010 directed the Principal Secretary to pass an order considering the grievance of the petitioner and an appropriate order required to pass within the minimum period of four weeks from the date of receipt and/or production of a copy of the said order. The Principal Secretary, *vide* order dated 06.04.2010, contained in Memo No. 395 (Annexure 6 to the writ petition) after considering the case of the petitioner, along with the other selected unreserved category candidates, directed the District Magistrate, Saharsa to take action against the Panchayat Secretary and simultaneously he directed the Block Development Officer, Simri, Bakhtiyarpur to proceed with the selection process within 30 days. The petitioner was appointed



in unreserved category, following the due process his appointing letter was also issued to him, as it would appear from Annexure-9 to the writ petition. The petitioner had joined the school concerned. One Vijender Kumar preferred an appeal before the District Appellate Authority, Saharsa and the District Appellate Authority directed the Selection Committee to pass an appropriate order in respect of the selection process dated 20.11.2017. The aggrieved selected persons preferred CWJC No.5211 of 2010 (Annexure-11 to the writ petition) and the writ petition was dismissed, thereafter, they preferred LPA No.1391 of 2010 before the Division Bench, which was dismissed *vide* order dated 25.08.2011. The petitioner, being conscious of the several orders passed by the quasi-judicial authority and by this Court, while he was posted and performing his duty, had preferred an appeal before the District Appellate Authority, Saharsa being appeal no.131 of 2020 in which the order was passed by the authority on 05.07.2021 declining to interfere having found the appeal to be premature since the petitioner was not removed from the post and he was continuously working pursuant to the order passed by this Court in CWJC No.5211 of 2010. The petitioner is now aggrieved by the order passed by the Secretary – cum – Member, Panchayat Selection Committee,



Gram Panchayat, Mohanpur, Block – Simri Bakhtiyarpur, Saharsa, who has informed that the appointment of the petitioner has been canceled *vide* order contained in Memo No. 4 dated 09.05.2022 (Annexure 18 to the I.A. No.01 of 2022). The petitioner challenged the said order by filing I.A. No.1 of 2022. The legality of the said order is challenged, on the ground that the respondents have not adopted the prescribed procedure, as indicated in Rule 18 of the Bihar Panchayat Elementary Teachers (Employment and Service Conditions) Rules, 2020 (hereinafter referred to as the ‘Rules, 2020’) by which Bihar Panchayat Elementary Teachers (Employment and Service Conditions) Rules, 2012, has been repealed.

4. *Per contra*, learned counsel appearing on behalf of the State submitted that *vide* impugned order dated 05.07.2021 learned State Appellate Authority has passed an order to agitate grievance of the petitioner before the appropriate authority. The appeal was disposed of with an observation that if any, adverse order is passed against appellant by the respondent-Employment Unit pursuant to the order impugned in the present appeal, the said order shall not, in any manner prejudice the claim of neither the appellant nor the private respondent No. 12. Learned counsel supported the action of the appointing unit, however, he



has not been able to defend the order contained in Memo No.4 dated 09.05.2022 (Annexure 18 to the I.A. No. 01 of 2022).

5. Heard the parties.

6. Having considered the rival submissions made on behalf of the parties, as well as, the facts, which have been summerised above, I notice that the order contained in Memo no.4 dated 09.05.2022 is an *ex-parte* order. Law in this regard is well settled that any action which is required to be taken against the petitioner, who is a teacher and continuously working pursuant to the appointment dated 12.06.2010, the action was required to be taken in accordance with the provision of Rule 18 of the Rules, 2020. The removal from service is a major penalty and the process prescribed in the Rule 18 of the Rules, 2020 has not been followed. I find that the order contained in Memo No.4 dated 09.05.2022 cannot be sustained in eye of the law and accordingly, the same is **set-aside and quashed**.

7. The petitioner is directed to be reinstated in the service forthwith. The petitioner becomes entitled to all the benefits like payment of salary etc. for the said period, which required to be paid expeditiously.

8. Any action, which the appointing unit at all proposes to take against the petitioner, the same is required to be



taken in accordance with provisions of Rules, 2020 particularly Rule 18 of the Rules, 2020.

9. Accordingly, the present writ petition stands disposed of.

(Purnendu Singh, J)

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