

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.18293 of 2021

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Awdhesh Pandit Son of Jagdeo Pandit, resident of Gaurakshini, P.S.-
Jehanabad, District- Jehanabad.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Education Department,
Bihar, Patna.
2. The Block Development Officer, Ghoshi, Jehanabad.
3. The Block Education Extension Officer, Ghoshi, Jehanabad.
4. The Panchayat Secretary, Uber Gram Panchayat, Ghoshi, Jehanabad.
5. The District Teacher Employment Appellate Authority, Jehanabad.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Sanjay Kumar, Advocate
For the Respondent/s : AC to SC 13

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CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL JUDGMENT

Date : 28-04-2025

Heard Mr. Sanjay Kumar, learned counsel appearing
on behalf of the petitioner and the learned AC to SC 13 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
31.08.2021 passed by Hon'ble Chairperson (A),
State Appellate Authority, Patna in Appeal No.
07/2021 whereby and under he was pleased to pass
order as follows:- "From discussions and facts
recorded above it becomes clear that the issues
which have been raised in this appeal petition are
the same which have been decided in writ no. 7304
of 2013. In that writ the Hon'ble High Court has
clearly concluded that CBHE, New Delhi is not a
recognized institution. Unfortunately the attempt*



made by the appellants to challenge this order in LPA failed and we are left with the situation that the order passed by the Hon'ble High Court in writ no. 7304 of 2013 still stands and it has to be followed. Thus, this appeal has become infructuous. As a result the case is disposed of as disallowed."

(ii) For issuance of an appropriate order/s, direction/s and writ/s for quashing order 19.10.2011 passed in Appeal No. 527(50)/2011 passed by District Appellate Authority (Department of Education, Govt. of Bihar) Jehanabad whereby and under the Learned District Appellate Authority dismissed the appeal by holding that Human Resources Development Department vide its letter dated 05.08.2010 did not recognize the certificate issued by Central Board of Higher Education, New Delhi and the appointment made of the petitioner as teacher is suspicious as per list published by District Superintendent of Education, Jehanabad so the appellate authority passed order for cancellation of selection of the petitioner immediately as teacher of Gram Panchayat, Uber.

(iii) For issuance of an appropriate order/s, direction/s and writ/s that after quashing order dated 19.10.2011 and 31.08.2021 passed by District Appellate Authority, Jehanabad and State Appellate Authority, Patna, Certificate issued by CBHE, New Delhi be declared valid and legal and thereafter the petitioner may be reinstated as Teacher from the date he has been removed from service and give all consequential relief to him.

(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 19.10.2011 passed in Appeal No.527(50)/2011 by the District Appellate Authority (Department of Education) and order dated 31.08.2021 passed



by the State Appellate Authority in Appeal No.7 of 2021 are not sustainable as the order dated 31.08.2021 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 31.08.2021 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 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 19.10.2011 passed in Appeal No.527(50)/2011 by the District Appellate Authority



(Department of Education) and the order dated 31.08.2021 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 31.08.2021 passed by the State Appellate Authority in Appeal No.7 of 2021.

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)

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AFR/NAFR	
CAV DATE	NA
Uploading Date	30.04.2025
Transmission Date	NA

