

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.12250 of 2025

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Rajni Kant Jha Son of Lakshmi Kant Jha Resident of Madhubani, Supaul,
P.S.- Lalit Gram, Madhubani, Bihar- 852125.

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Education Department, Government of Bihar, Patna.
2. The Secretary, Education Department, Government of Bihar, Patna.
3. The Director, Primary Education, Government of Bihar, Patna.
4. The District Programme Officer (Establishment), Supaul.
5. The District Education Officer, Supaul.
6. The Panchayat Secretary cum Secretary Panchayat Teacher Recruitment Unit, Madhubani, Supaul.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Isshan Siingh, Advocate
For the Respondent/s	:	Mr.Manoj Kumar Ambastha, SC 26
		Mr.Subodh Kumar, AC to SC 26

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CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL JUDGMENT

Date : 07-08-2025

Heard Mr. Isshan Siingh, learned counsel appearing on behalf of the petitioner and Mr. Manoj Kumar Ambastha, learned SC 26 along with Mr. Subodh Kumar, learned AC to SC 26 for the State.

2. The petitioner, who was appointed on compassionate ground on 12.04.2010, was regularly getting honourarium as per the prescribed provisions contained in Bihar Panchayat Primary Teacher (Appointment and Service Conditions) Rules, 2006 (hereinafter referred to as 'Rules



2006') and thereafter, Rules, 2006 was repealed by the Bihar Panchayat Teachers Rules, 2012 (hereinafter referred to as 'Rules, 2012') and Rules, 2012 was also repealed by Bihar Panchayat Elementary School Service (Appointment, Promotion, Transfer, Disciplinary Proceedings and Service Conditions) Rules, 2020. These Rules were framed as per the provision of Article 243G of the Constitution of India and Sections 22 and 47 read with Section 146 of the Bihar Panchayat Raj Act, 2006. All of a sudden, salary of the petitioner was stopped from February, 2023. The untrained teachers of Primary School were getting salary as per the Resolution No.1530 dated 11.08.2015. The petitioner represented before the different authorities of the Education Department and he has brought on record those representations by way of **Annexure – 4 (series)** to support his contention that even though his appointment was illegal, his salary was not required to be stopped and such communication had been made by the Additional Chief Secretary, Education Department, vide order contained in Memo No.734 dated 08.07.2022.

3. A query was made from the learned counsel appearing on behalf of the petitioner in respect of the year of death of father of the petitioner, who had died in harness and the



post he was holding on the day he died. In absence of any information in the writ petition, the matter was adjourned, but today (i.e. on 07.08.2025) also, no such information has been given to the Court. The law relating to the applicability of the governing rules applicable for governing the service conditions of the employees, who have been appointed on compassionate ground is now well settled by the Apex Court in the case of ***The Secretary to Govt. Department of Education (PRIMARY) & Ors. Vs. Bheemesh Alias Bheemappa (Civil Appeal No.7758 of 2021) arising out of Special Leave Petition (C) No.1564 of 2021.***

4. As per **Annexure -1 (series)**, the petitioner was appointed on compassionate ground by the Appointing Unit of Gram Panchayat, Madhubani as Panchayat Teacher and he was communicated about his appointment vide letter No.1-2 dated 12.04.2010. A reference has been made by the learned counsel appearing on behalf of the respondents that Rule 10 of Rules, 2006 deals with the provision relating to appointment on compassionate ground and the said Rules mandates that if a person is appointed on compassionate ground, he is mandatorily required to obtain training within a period of six years from the date of appointment, as such, the petitioner, who was appointed



on 12.04.2010, was required to obtain requisite qualification well within a period of six years.

5. Subsequent development also took place mandating the State Government to provide free education to the children of Class I to Class VIII of Elementary Schools and to teach the children, the teachers must possess requisite qualification, as per the provision of Right to Education Act, 2009. NCTE was empowered to lay down the requisite qualification for teachers of Elementary Schools and came out with a notification no. 215 dated 23.08.2010, which was amended in the year, 2011 *vide* notification no. 158 dated 29.07.2011. The resolution prescribes the requisite qualification for the Primary School Teachers being Intermediate (minimum qualification) and training in B.EL-Ed. The State Government was under obligation to provide them in-service training to meet the terms and conditions as laid down in notification of NCTE dated 29.07.2011. Section 23(2) of RTE Act, 2009 provides for relaxation of five years from the date of resolution, which mandated the untrained teachers to undergo in-service training within a period of five years specifically by 31.03.2019. Several representations were filed before the Apex Court by those Teachers who were aggrieved throughout the Country which was noticed by the Apex Court in the case of



Ram Sharan Maurya V State of U.P., reported in ***AIR 2021SC 954***, and finally in the case of **Devesh Sharma vs. Union of India & Ors.**, reported in **(2024) SCC OnLine SC 3096**, finding it proper to further relax time by making it obligatory to obtain in-service training, who were untrained.

6. The Apex Court in the case of ***Devesh Sharma (supra)***, considering the interest of a large number of teachers of various state *vide* order dated 08.04.2024 granted one more opportunity to be afforded. The Apex Court further held that “*the order shall not be confined to the applicant state only and shall cover all cases which may be pending in different judicial fora in any State or Union territory on the same point of law.*” The observation of the Apex Court in paragraphs no. 8 and 9 as under:

"8. As it appears that a large number of candidates with B.Ed. degree had already been appointed on the basis of eligibility criteria specified by the educational authorities, we do not think it to be equitable to effect their removal. We, accordingly hold that the judgment delivered by this Bench on 11-8-2023 shall have prospective operation. But prospective operation of this judgment shall be only for those candidates who were appointed without any qualification or conditions imposed by any Court of Law to the effect that their appointment would be subject to final outcome of the case which might have had been instituted by them and such candidates were in regular employment without any disqualification and were appointed in pursuance of a notice of advertisement where B.Ed. was stipulated to be valid qualification. Services of only such candidates shall not be disturbed because of this judgment. We make it clear that this benefit is only for the candidates who were appointed prior to the date our judgment was delivered, on 11-8-



2023. Mere selection of such candidates or their participation in the process will not entitle them for a benefit under our present order. (Emphasis supplied)

9. Moreover, the candidates having B.Ed. qualification whose appointments we are protecting in this judgment, will have to undergo a bridge course and we direct the educational authorities to devise such course, which would be applicable for each state and union territory, within a period of one year from today. This course shall be only for those appointees who have been engaged with B.Ed. degree only in the subject-posts under conditions stipulated in the earlier part of this order. National Council for Teacher Education shall design such course under overall supervision of the Ministry of Education, Union of India. Upon formulation of such course, the same shall be publicly notified and a timeframe shall also be given within which the respective candidates shall participate therein. Failure of any candidate to participate and complete the course within the timeframe to be given by the concerned educational authorities will invalidate the appointment of such candidate."

7. At this stage, learned counsel appearing on behalf of the State informs that the steps were taken to terminate the teachers who had not obtained in-service training and eligibility to teach the children of primary school. It is further contended that the petitioner has not even given information regarding his qualification. To teach the primary school classes (i.e. Class I to V), minimum qualification is Intermediate pass to become a basic grade teacher and in absence of such information, the present writ petition is fit to be dismissed. It is further submitted by the learned counsel that in view of the law laid down by the Apex Court in case of **Jaiveer Singh & Ors. vs. the State of Uttarakhand and Ors.** reported in (2023) SCC Online SC



1584 and **Devesh Sharma** (Supra), if the petitioner has minimum qualification of Intermediate then in that case he cannot be allowed to continue as a teacher having not undergone training, even though, sufficient time was left to the petitioner from the date of his appointment in the year, 2010 to obtain training. On these grounds, the learned counsel for the State submitted that the writ petition being devoid of any information and pleading is fit to be dismissed even without filing any counter affidavit.

8. Heard the parties.

9. The petitioner is aggrieved for non-payment of salary from the period February, 2023 till date. Annexure P/1 to the writ petition reveals that the petitioner was appointed on compassionate ground on 12.04.2010 and since then the petitioner was continuously being paid his salary till January, 2023. The petitioner has been able to give information to this Court that by way of Annexure 4(series), he had continuously raised his grievance before the appropriate authority for making payment of due salary. Only on 20.03.2025, an application was made to the Director, Primary Education and the similar application was made to the District Education Officer, Supaul. Ignorance on the part of the petitioner, who has admitted that he



was paid due salary till January, 2023 but no information has been given that why he had not approached any legal forum or any authority for payment of his due salary. In absence of such information, I have no alternative than to give liberty to the petitioner to file his detailed representation in respect of his claim for payment of salary from February, 2023 to till date before the District Education Officer, Supaul giving all the information in support of his claim.

10. In case, the petitioner files such representation, the District Education Officer, Supaul is directed to call for the service particulars of the petitioner from the school concerned through the Block Development Officer, Chhatapur and examine the claim of the petitioner insofar as his entitlement to continue in service and payment of salary, which according to the petitioner has abruptly been stopped from February, 2023.

11. This Court has not passed any order on merit as to whether due to the laches on the part of the State, the petitioner was not sent for in-service training any time before or after coming into force of RTE Act, 2009 or the petitioner is himself responsible for not availing such opportunity at the relevant time. In absence of any subsequent development, which has taken place from January, 2023, I am constrained to make any



observation in respect of entitlement of the petitioner on merit.

12. With the above observation/direction, the present writ petition stands disposed of.

(Purnendu Singh, J)

chn/-

AFR/NAFR	A.F.R.
CAV DATE	NA
Uploading Date	08.08.2025
Transmission Date	NA

