

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9591 of 2017

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Md. Kaisar Raza Son of Md. Naimuddin Resident of Village- Belaganj, P.S. Khagaria, District- Khagaria. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Human Resources Development Department, Government of Bihar, Patna.
2. The Director, Primary Education, Govt. of Bihar, Patna.
3. The District Magistrate, Khagaria.
4. The Deputy Development Commissioner, Khagaria.
5. The District Programme Officer, Establishment Khagaria.
6. The Block Education Extension Officer, Khagaria.
7. The Panchayat Secretary, Elea. Simari Panchayat, P.S. Khagaria, District- Khagaria.
8. The Mukhiya, Bela Simari Panchayat, P.S. Khagaria, District- Khagaria.
9. The Bachandeo Chourasia, Son of Kailash Prasad Chourasia Resident of Village and P.O. Bela Simari, P.S. Khagaria, District Khagaria.
10. The District Education Officer, Khagaria, Distt. Khagaria.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Sanjay Kumar, Adv. Mr. Ram Sumiran Rai, Adv.
For the State	:	Mr. Vivek Anand Amritesh, AC to SC-28
For Respondent No.9	:	Mr. Basant Kumar Chaudhary, Sr. Adv. Mr. Arvind Kumar, Adv.

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CORAM: HONOURABLE MR. JUSTICE ALOK KUMAR SINHA
ORAL ORDER

20 11-12-2025 Heard learned counsel for the petitioner, learned Senior Counsel appearing for respondent no.9 and learned counsel for respondents-State.

2. This application has been filed for setting aside the order dated 19.06.2017 passed by the State Appellate Authority, Education Department Bihar in Case No. Appeal/33/2017, whereby and whereunder as per the petitioner the order of District Appellate Authority, Khagaria dated 13.05.2013 passed



in Case No. 27-01 has been set aside and appointment of petitioner as 'Urdu Teacher' has been held irregular and has further been directed to reinstate respondent no.9 as Panchayat Teacher in unreserved category in place of the present writ petitioner within one month. Prayer has also been made for a direction upon the respondents to allow the petitioner to discharge his duty on the post of Panchayat Teacher against "Urdu" subject during pendency of this present writ application.

3. While advancing argument, learned counsel appearing for the petitioner has drawn attention of this Court to the previous order dated 14.07.2017 passed in this case by which this Court had stayed the operation of the impugned order dated 19.06.2017 passed by the State Appellate Authority in Case No. Appeal/33/2017 and the said stay continues event till date.

4. Without getting into the complexities of the facts, the present order is being passed on the limited point that the impugned order, so far as it relates to giving finding on the disputed question of fact as to whether there existed two posts of "Urdu" Teacher or three posts, appears to be erroneous. In paragraph-8 of the impugned order passed by the State Appellate Authority in Case No. Appeal/33/2017, it has been



held and observed as follows:

“8. Now the controversy about the number of posts earmarked for Urdu teachers has been laid to rest by the report submitted by District Education Officer, Khagaria enclosing therewith a photocopy of the roaster earmarking the posts in different schools which indicates that there were only two posts earmarked for Urdu teachers against eleven vacancies of the year 2006. The Panchayat Secretary and Mukhiya of Bela Simari Panchayat have also asserted in their counter affidavits that there were only two posts of Urdu teachers. Therefore, learned District Authority has erred in holding that there were three posts of Urdu teachers.”

[Emphasis Supplied]

5. The aforesaid observation-cum-finding that there were only two posts of Urdu Teacher does not appear to be correct for the reason that in the counter affidavit which was filed by the Panchayat Secretary before the State Appellate Authority, it was stated as follows:

“3. That sub paras (i) to (iii) and (vi), (vii) and (viii) to (xvi) of para-6 of statements of facts are true, correct and admitted as the same are matters of records.



So far averment made in para-iv of para-6 are concerned it is wrong to say that there were only two vacancies of Urdu Teacher in Primary Magtab, Belaganj. As per Roaster issued by District Education Office, Khagaria, 3 (three) seats were reserved for Urdu Teachers.”

[Emphasis Supplied]

6. It is thus apparent that Panchayat Secretary had very clearly stated before the State Appellate Authority that as per the roster issued by the District Education Officer, Khagaria three posts were reserved for ‘Urdu Teachers’, but in the impugned order erroneous finding has been given by the State Appellate Authority stating that the Panchayat Secretary had asserted that only two posts of ‘Urdu Teacher’ was existing. Manifestly, the finding given by the State Appellate Authority is erroneous and does not reflect the true factual position asserted by the Panchayat Secretary.

7. In view of the discussions made above, the impugned order dated 19.06.2017 passed in Appeal Case No. Appeal/33/2017 by the State Appellate Authority is set aside and the matter is remanded back to the State Appellate Authority to decide the disputed question of fact as to “whether there existed



two posts or three posts of Urdu Teachers?”. This issue shall be decided afresh by the State Appellate Authority and all the parties concerned shall be given adequate opportunity to present their case. Parties would be at liberty to file additional documents and affidavits before the State Appellate Authority in support of their respective cases. It is expected that after remand the State Appellate Authority shall decide this matter expeditiously within a period of six months from the date of receipt/production of a copy of this order. Needless to emphasize that the final order which shall be passed by the State Appellate Authority shall be a reasoned and speaking order.

8. With the aforesaid observation and direction the present writ application is allowed to the extent indicated above. Pending I.As, if any, will be deemed to have been disposed of.

9. So long as the matter is pending before the State Appellate Authority, the petitioner will not be disturbed from his service.

10. Office is directed to return the original records to the State Appellate Authority.

(Alok Kumar Sinha, J)

Prakash Narayan

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