

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4417 of 2021

Kabita Kumari daughter of Late Ram Vilash Yadav and Wife of Mr. Sharad Kumar, Resident of Mohallah Lanka Tola, Murgi Farm Road, Sadar Madhubani, Police Station- Khajanchi- Hat, within Purnia Town, Bihar.

... .. Petitioner/s

Versus

1. The State of Bihar through the Additional Chief Secretary, Education Department, Government of Bihar, Patna.
2. The Director, Primary Education, Education Department, Government of Bihar, Patna.
3. The Municipal Commissioner, Purnia-cum-Appointing Authority of the Nagar Nigam Units of Purnia Municipal Corporation.
4. The District Education Officer, Purnia.
5. The District Program Officer (Establishment), Purnia.
6. Block Education Officer, Sadar (Headquarter), Purnia East Purnia.
7. Head Master, Baal Madhya Vidyalaya, Madhubani, Purnia.

... .. Respondent/s

Appearance :

For the Petitioner	:	Mr. Gyanand Roy, Advocate
For the State	:	Mr. Kameshwar Kumar, G.P.-17
For the Res. No.3	:	Mr. Prince Kumar Mishra, Advocate

CORAM: HONOURABLE MR. JUSTICE RITESH KUMAR
ORAL ORDER

4 26-03-2026 Heard the learned counsel for the parties.

2. The following reliefs are being sought for in the
present writ petition:

“i. For quashing the impugned Letter No.978, dated 13-11-2020 (as contained in Annexure P/1 to this petition), issued by the Director, Primary Education, under Letter No.978, dated 13-11-2020, addressed to all the District Education Officer as well as District Program Officer (Establishment), Bihar, so far as it relates to the petitioner. By which impugned order dated 13-



11-2020, it has been directed that all such teachers, who have not completed 18 months D. El. Ed. Training upto 31-03-2019, and have not passed D. El. Ed. Examination should be removed from the service, by the appointing units by following procedure in accordance with law and payment of salary should be made to the working teacher from the date of passing of the D. El. Ed. Examination only.

ii. For restraining the respondents from removing the petitioner from service on the ground that she has not been passed D. El. Ed. Examination, upto 31-03-2019, as has been directed in the impugned order dated 13-11-2020 (As contained in Annexure P/1 to this petition).

iii. For commanding the respondents to accept the joining of the petitioner submitted by her on 27-01-2020, to the Commissioner, Municipal Corporation, Purnia-cum-Appointing Authority of the Nagar Nigam Units Purnia, and to regularize the period of her leave of the period from 01-04-2019 to 26-01-2020 and also to make payment of arrear as well as current salary to her.”

3. It appears from the record that vide order dated 09.05.2022, a Coordinate Bench of this Court, while issuing notice to the respondents, directed the petitioner to serve a copy of the writ petition upon the learned Government counsel and the learned counsel for the State was directed to file a reply. It was observed that the petitioner had requested the authorities concerned to allow her to join, but the respondent authorities are not allowing the petitioner to join and considering the same, a



direction was issued that the petitioner shall be allowed provisionally to join and to perform her duties.

4. The learned counsel for the petitioner submits that in compliance of the said order dated 09.05.2022, the petitioner submitted her joining before the concerned respondents and is performing her duties. It is further submitted that the issue in question has been decided by Hon'ble Full Bench of this Court vide its judgment dated 20.03.2024, reported in 2024 (3) B.L.J. 1 (Bibi Sakina Khatoon & Ors. vs. The Union of India & Ors.), wherein in paragraph no.-41, the Hon'ble Full Bench had issued certain directions, which is reproduced hereinbelow:

“41. On the interpretation given by us to Section 23(1), we issue the following directions:-

(1) those who were appointed prior to 01.04.2010 who have acquired the teaching qualification on or before 08.08.2021 would be entitled to be continued;

(2) the results withheld, when declared, if it relates back to the period before 08.08.2021, those persons should be continued in employment;

(3) the issuance of certificates also would have to concede to the date of publication of results; which if published before 08.08.2021, those persons will be deemed to have been continued;

(4) the unqualified teachers who were appointed during the relaxation period, i.e. between 01.04.2010 and 31.03.2015 will also be deemed to have been continued, if they have acquired the teachers training qualification; the minimum



qualification, on or before 08.08.2021.

(5) The persons, who were appointed after 31.03.2015, if are unqualified will have to be terminated even if, they have acquired the qualification within 08.08.2021; since their appointment itself is invalid. There could not have been any unqualified persons appointed after 31.03.2015.

(6) Those who were in place as teachers on 01.04.2010 and then on 31.03.2015, if not acquired the qualification before 08.08.2021 will stand terminated.”

5. The learned counsel appearing on behalf of the State does not object to the said submission made by the learned counsel for the petitioner.

6. The writ petition is disposed of with a direction to the respondent authorities to take necessary steps in terms of the observations made in paragraph no.-41 of the judgment passed by the Hon’ble Full Bench in the case of Bibi Sakina Khatoon (supra) and to consider the fact that the petitioner could not appear in two papers, i.e., Code No.506, Understanding children in inclusive context and Code No.507, Community & Elementary Education on account of medical reasons and take decision in accordance with law. The authorities concerned are further directed to consider that since the petitioner is said to have joined, pursuant to the order dated 09.05.2022, passed in the present writ petition and if she has continued by virtue of the



said order, she is entitled for the salary for the said period. The entire exercise must be completed within a period of three months from the date of receipt/production of a copy of this order.

7. The writ petition is disposed of in the aforementioned terms.

(Ritesh Kumar, J.)

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