

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1509 of 2019

Md. Waris Alam Md. Nazim Ansari Resident of Village-Pakaria, P.S. Hisuwa,
District Nawada.

... .. Petitioner/s

Versus

1. The State Of Bihar and Ors The State Of Bihar and Ors Bihar
2. The Principal Secretary Primary Education, Department of Human Resources development Govt. of Bihar Patna
3. The Director Primary Education the Department of Human Resouces Development Govt. of Bihar Patna
4. The Member, District teacher Appellate Authority Nawada
5. The District Programe Officer, (Establishment) Nawada, District Nawada
6. The Block Development Officer, Nardiganj, Nawada, District Nawada
7. The Mukhiya Gram Panchayat Khuakarna, Block Nardiganj, P.S. Nardiganj, Dist. Nawada
8. The Panchayat Secretary of Gram Panchayat Ichuakarna Block Nardiganj, P.S. Nardiganj, Dist. Nawada
9. Benu Kumari Ramchandra Prasad R/o Village Orro, P.S. Nardiganj, Dist.- Nawada.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Siya Ram Shahi, Advocate Mr. Abhishek Raj Kashyap, Advocate
For the State	:	Mr. Jitendra Kumar Roy (Sc13) Mr. Jai Prabhat Kishore, AC to SC-13
For Respondent No.7 & 8:	:	Mr. Sidhendra Narayan Singh, Advocate Mr. Kumar Lalit, Advocate
For Respondent No.9	:	Mr. Umesh Kumar Mishra, Advocate

CORAM: HONOURABLE MR. JUSTICE AJIT KUMAR
ORAL JUDGMENT

Date : 05-01-2026

Heard learned counsel for the petitioner and
learned counsel for the respondents.

2. The instant writ application has been filed for the
following reliefs:-

(i) For quashing the order dated 07.09.2018 issued



by the Chairperson State Appellate Authority in Appeal Case No.80/2018 contained in Annexure-12.

(ii) For commanding the Respondent No.7 and 8 to appoint the petitioner as Urdu teacher against the solitary post of Urdu Teacher in Gram Panchayat Ichuakarna Block Nardiganj, P.S. Nardiganj, District- Nawada.

(iii) For any other relief or reliefs for which the petitioner is entitled under law as well as on the facts of the case.

3. From Annexure-4, it appears that there was only one sanctioned post of Urdu Teacher, against which the petitioner was appointed. The District Appellate Authority, Nawada, vide order contained in Memo No. 161 dated 09.05.2012, had directed the Employment Unit to appoint the petitioner on the post of Urdu Teacher, and pursuant thereto, the petitioner was appointed. It is the case of the petitioner that in order to adjust Respondent No. 9, namely, Benu Kumari, the petitioner was displaced from the post against which he was appointed, and at the instance of Respondent No. 9, the District Appellate Authority recalled its earlier order vide Memo No. 94 dated 18.07.2013.

4. It is next submitted that the petitioner, being



aggrieved by the order of recall, filed an appeal being Appeal Case No.80 of 2018, before the State Appellate Authority, which was finally heard on 07.09.2018. However, without considering the fact that the petitioner's appointment was made against the post of Urdu Teacher and that respondent no. 9, even on transfer could not have been adjusted, as against the post of Urdu teacher, which post was being held by the petitioner, this material aspect of the matter was not considered by the learned State Appellate Authority. Treating respondent no. 9 as a teacher appointed against the Urdu subject, the appointment of the petitioner, made pursuant to the order passed by the District Appellate Authority, Nawada, as contained in Memo No. 161 dated 09.05.2012, was interfered with, and the said order was erroneously treated as an error committed and, consequently, the subsequent order of recall was upheld by the State Appellate Authority. While doing so, the State Appellate Authority erred in appreciating the fact that the petitioner, who was initially appointed pursuant to the order passed by the District Appellate Authority against a sanctioned post, was alleged not to have appeared in counselling, whereas there is nothing on record to show that the petitioner had not appeared. Despite the absence of any such finding supported by the record, the order recalling



the original order dated 09.05.2012 was upheld.

5. This Court, vide orders dated 18.11.2025 and 09.12.2025, had directed the Panchayat Secretary to bring on record the compliance order issued by the Panchayat Employment Unit, and vide an affidavit dated 19.12.2025 has submitted, by referring to the records registered relating to the selection of Panchayat Teacher under Panchayat Unit, Ichuakarna, Block Nardiganj, P.S. Nardiganj, District Nawada, it appears that no consequential order of removal of the petitioner is available on record. It further appears from the records that there is no mention of issuance of any such order or decision purportedly taken by the Employment Unit, is said to have been passed in compliance with the order of the State Appellate Authority.

6. At this stage, learned counsel for respondent no. 9 submits that respondent no. 9, having participated in the test conducted for the post of Exclusive Teacher, has already been declared successful and is working against the said post, and does not have any dispute with the employment of the petitioner as against the post of Urdu teacher.

7. Learned counsel for the Panchayat Secretary submits that the petitioner was the only candidate against the



Urdu subject, which is an undisputed fact.

8. Since the impugned order does not reflect consideration of these material issues, despite specific pleadings and the materials available on record showing that the appointment of respondent no. 9 was not made against the Urdu subject, whereas the petitioners' appointment was made against the post of Urdu Teacher, this material aspect of the matter has not been considered by the State Appellate Authority. Accordingly, the order of recall as well as the order of the State Appellate Authority are hereby set aside.

9. The District Appellate Authority, Nawada, is directed to re-examine the issues and pass necessary orders within two months, in light of the fact that respondent no. 09 is no longer a Panchayat Teacher and has already been appointed as an Exclusive Teacher; however, the appointment of the petitioner was made against the Urdu subject, was the sole candidate against the post, for which the initial engagement was made pursuant of the direction of the District Appellate Authority.

10. It goes without saying that if, upon examination of the records, it appears that the vacancy with respect to the Urdu subject is still available and there is no impediment in



directing appointment of the petitioner against the same post on which the petitioner was working pursuant to the order of the District Appellate Authority, then the necessary order regarding the petitioner’s entitlement shall be passed by referring to the records within the same period.

11. It is made clear that, in view of the fact that there is no order of removal against the petitioner and that he has discharged his duties, supported with records, then after verifying the same, the necessary orders shall also be passed with regard to his entitlement to salary in light of the decision taken by the Hon’ble Apex Court in the case of **Maan Singh v. Union of India & Ors., (2003) 3 SCC 464; AIR 2003 SC 1800.**

12. Accordingly, the instant writ application stands allowed.

(Ajit Kumar, J)

shikha/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	13.01.2026
Transmission Date	NA

