

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.290 of 2025

In
Civil Writ Jurisdiction Case No.10380 of 2019

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Md Aslam Ali Quadri @ Md. Aslam Ali Kadri Son of Haroon Rasid Ansari
Resident of Village- Chakka, P.S.- Baheri, Dist.-Darbhanga.

... .. Appellant/s

Versus

1. The State of Bihar through the Principal Secretary, Primary Education, Education Deptt., Govt. of Bihar, Patna.
2. The District Programme Officer, Darbhanga.
3. The Block Development Officer, Baheri, P.S. Baheri, District- Darbhanga.
4. The Block Education Officer, Baheri, P.S.- Baheri, District- Darbhanga.
5. The Panchayat Secretary, Gram Panchayat Raj Baghouni, P.S. and Block Baheri, District- Darbhanga.
6. The Mukhiya, Gram Panchayat Baghouni, P.S and Block Baheri, District- Darbhanga.
7. Wakil Ahmad, son of Abdul Hakim, Resident of Village- Kumai, P.O.- Nari, P.S.- Ghanshyampur District- Darbhanga.

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr. Binod Kumar Sinha, Advocate
For the Respondent/s : Mr. Addl. Advocate General (13)

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE HARISH KUMAR

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 25-02-2026

This Letters Patent Appeal has been filed by the appellant Md Aslam Ali Quadri @ Md. Aslam Ali Kadri, who was the writ petitioner challenging the order dated 08.05.2024 of the learned Single Judge passed in C.W.J.C. No. 10380 of 2019.

The writ petition was filed by the appellant-writ



petitioner for setting aside the order dated 01.04.2019 passed by the learned State Appellate Authority, Patna in Appeal No.144/2018, whereby and whereunder the order dated 08.12.2009 passed by the District Teachers Employment Appellate Authority, Darbhanga (hereinafter referred to as 'the Appellate Authority, Darbhanga') in Case No. 674 of 2009 was quashed on the ground of lack of jurisdiction and employment of the petitioner was cancelled and the Panchayat Employment Unit was directed to hold fresh counselling inviting the respondent no.7 to the writ petition, so also to the petitioner and other candidates above them in the merit list intimating the date, time and venue of counselling and the Block Development Officer, Baheri was directed to get the entire process completed within a period of three months from the date of receipt of the order.

2. It is the case of the writ petitioner that in the year 2006, he along with others applied for appointment as Panchayat Teacher in Baghouni Gram Panchayat, within Baheri Panchayat. Total 14 numbers of post of teachers were notified in the advertisement, out of which 10 posts were of Hindi Teachers and 4 seats were for Urdu Teachers. The Panchayat prepared the merit list as per the marks of the applicants and the petitioner



was placed at serial no.37, whereas the respondent no.7 was placed at serial no.36. Thereafter the counselling was held, which was completed and six persons turned up for certificate verification and submitted their consent and accordingly, they were issued joining letters. Eight posts remained vacant, for which second panel list was prepared for eight persons, including the petitioner on 10.01.2007 and then after the counselling, verification of certificate and consent, the appointment letter was issued in favour of the petitioner and accordingly, he submitted his joining on 16.01.2007. It is the further case of the petitioner that the respondent no.7 submitted an application before the Block Development Officer, Baheri on 23.01.2008, which was entertained and without issuing any show-cause to the petitioner and giving him opportunity of hearing, order was passed on 04.04.2008 whereunder the selection of the petitioner was cancelled and the authorities were directed to appoint respondent no.7.

3. Aggrieved with the aforesaid order dated 04.04.2008, the petitioner filed C.W.J.C. No. 10269 of 2008, which was disposed of on 28.10.2009 and liberty was granted to the petitioner to approach the District Appellate Authority. In pursuance of such order passed by this Court, the petitioner



approached the Appellate Authority, Darbhanga and the Appeal No. 674 of 2009 was registered and in the said appeal, order dated 04.04.2008 passed by the Block Development Officer, Baheri was set aside and the petitioner was reinstated in service.

4. Respondent no.7 challenged the order dated 08.12.2009 passed by the Appellate Authority, Darbhanga before this Court in C.W.J.C. No. 2162 of 2010 and the same was disposed of on 13.11.2017 giving liberty to him to approach the Bihar State Appellate Authority, Patna and accordingly, respondent no.7 filed State Appeal No. 144 of 2018, which was allowed mainly on the ground that the District Teacher Appellate Authority has no jurisdiction to sit in appeal against the order of B.D.O. and accordingly, the State Appellate Authority quashed the order dated 08.12.2009 and 04.04.2008 and cancelled the selection of the petitioner and further directed the respondent Mukhiya and Panchayat Secretary to hold fresh counselling, inviting the appellant, respondent no.7 and other candidates above them in the merit list intimating the date, time and venue of counselling.

5. The main grounds that were taken by the writ petitioner before the learned Single Judge in the writ petition as to whether the entertainment of the application of respondent



no.7 belatedly was justified when he failed to get appointment in his Panchayat by the Block Development Officer, inter alia with other grounds.

6. Counter affidavits were filed by respondent no.2 and also respondent no. 7 and replies to the counter affidavits, filed on behalf of respondent nos. 2 and 7, were also filed by the petitioner.

7. In the counter affidavit filed by respondent no.7, the main ground that has been taken is on the earlier occasion the Block Development Officer was the Appellate Authority under Rule 18 of the Employment Rules, 2006, which was amended vide Notification No. 3148 dated 25.08.2008 replacing the B.D.O. by a District Level Authority consisting of one or more members appointed by the State Government having power to lay appeal related to employment and other service conditions under the Rules.

The amendment does not specify that the District Authority shall hear appeal against the order passed by the B.D.O.

In the case of *Amarnath Keshari and Narendra Kumar Jha Vs. State of Bihar & Ors.*, reported in, **2018 (4) PLJR 660**, it has been held that the Tribunal had no power to



hear or decide the issue which has already been decided by the predecessor body.

8. The learned Single Judge after going through the pleadings and hearing the learned counsel for the respective parties has been pleased to hold as follows:

“9. That after getting knowledge about the illegal appointment of petitioner, the respondent no.7 approached the Mukhiya but of no avail. Finding no way the respondent no.7 has filed a petition before the Block Development Officer (the then appellate authority), who after hearing the parties passed as order dated 04.04.2008 to appoint the respondent no.7 as Panchayat Teacher and communicated through Memo No.1059 dated 08.05.2008 to all concerned. The petitioner preferred an appeal against the order of the Block Development Officer dated 04.04.2008, being Objection Case No.674 of 2009 before the District Teacher Appointment Appellate Tribunal, Darbhanga. The respondent no.7 appeared before the Tribunal and filed his reply. The Tribunal after hearing the parties, set aside the order of the Block Development Officer dated 04.04.2008 vide order dated 08.12.2009 contained in memo no.1543 dated 16.12.2009 and the same order is illegal passed without jurisdiction.



10. The appointment of the petitioner was illegal and it was not necessary to hear him before passing any order. It is submitted that it is well settled law that on the earlier occasion, the B.D.O. was Appellate Authority under Rule 18 of Employment Rules, 2006. Rule 18 was amended by Notification No.3148 dated 25.08.2008 replacing the B.D.O. by a District Level authority consisting of one or more members appointed by the State Government having power to lay appeals related to employment and other service condition under the Rules. The amendment dated 25.08.2008 did not say that the District Authority will hear appeal against the order passed by the B.D.O.

11. Respondent no.7 had no option than to challenge the order of District Appellate Authority by filing CWJC No.2162 of 2010 which was disposed of by order dated 13.11.2017 with liberty to approach the Bihar State Appellate Authority, Bihar. The respondent no.7 filed the appeal before the State Appellate Authority against the impugned order dated 08.12.2009 passed in Objection Case No.674/2009 by the Members of the District Teachers Engagement Appellate Authority, Darbhanga. Learned counsel for the respondent no.7 further submitted that the District Appellate Authority has no jurisdiction to sit in



*appeal against order of B.D.O. and this Hon'ble Court held in the case of **Amarnath Kesri and Narendra Kumar Jha; 2018(4) PLJR 660** that "Tribunal had no power to hear or decide the issue which has already been decided by the predecessor body".*

*12. Considering the arguments of the parties, on perusal of the record and on going through the order of the State Appellate Authority, it is clear that the State Appellate Authority has passed order after considering the order of this Court passed in **Amarnath Kesri and Narendra Kumar Jha** (supra), which held that Tribunal had no power to hear or decide the issue which has already been decided by the predecessor body i.e. B.D.O., which was the adjudicatory forum prior to constitution of tribunal."*

After giving the reasoning, as mentioned in the above paragraphs, the learned Single Judge has been pleased to hold that there is no illegality in the order passed by the State Appellate Authority.

9. When this matter was taken up on the last date i.e. on 02.02.2026, we made a query to the learned counsel for the appellant as to what perversity existed in the order of the learned Single Judge, since the same was passed taking into



account the ratio laid down by this Court in the case of *Amarnath Keshari and Narendra Kumar Jha* (supra), the learned counsel for the appellant submitted that the factual scenario in the *Amarnath Keshari and Narendra Kumar Jha* (supra) is completely different from the case in hand.

However, since the legal point has already been decided in the said case, which is also applicable in the case in hand, we are of the humble view that in the factual scenario, the learned Single Judge is quite justified in applying the ratio laid down in the case of *Amarnath Keshari and Narendra Kumar Jha* (supra) in this case and since there is no perversity in the impugned order, we are not inclined to interfere with the same.

10. Accordingly, this Letters Patent Appeal stands dismissed.

(Sangam Kumar Sahoo, CJ)

(Harish Kumar, J)

uday/-

AFR/NAFR	NAFR
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