

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7889 of 2025

1. Rameshwar Kumar @ Ramishwar Kumar Son of Shri Bhola Rai, Resident of Village- Laxmipur, 162, Ward No. 02 Post Office- Bathnaha, District- Sitamarhi, Prakhand Teacher, Govt. Middle School Bishunpur Kamaldah, Anchal- Bathnaha, District- Sitamarhi.
2. Masoor Ansari S/o Shri Gafoor Ansari, Village- Suhai, P.O. Manik Chowk Ward No. 13, P.S.- Dumra, District- Sitamarhi, Prakhand Teacher, Govt. Middle School Orlahiya, Anchal- Bathnaha, District- Sitamarhi.
3. Shyam Kumar S/o Ramsnehi Ray, Resident of Village- Mishraouliya, Ward No. 5, R. Gosaipur, Post Office- Paktola, P.S.- Dumra, District- Sitamarhi, Prakhand Teacher, Govt. Middle School Bishunpur Kamaldah, Anchal- Bathnaha, District- Sitamarhi.
4. Manish Kumar S/o Shri Ram Babu Mahto, Village and P.O.- Rasalpur, P.S.- Majorganj, District- Sitamarhi, Prakhand Teacher, Govt. Middle School Shahpur Shitalpatti, Anchal- Bathnaha, District- Sitamarhi.
5. Nutan Kumari D/o Ratneshwar Prasad Singh, Village- Pratap Nagar, P.S.- Mehsaul, District- Sitamarhi, Govt. Middle School Gattipur, Anchal- Bathnaha, District- Sitamarhi.
6. Jai Prakash Pandey S/o Shri Vijay Kumar Pandey, Village- Masahi, P.O.- Mohni Mandal, P.S.- Suppi, District- Sitamarhi, Prakhand Teacher, Govt. Middle School Maudah, Anchal- Bathnaha, District- Sitamarhi.
7. Mukesh Baitha S/o Raj Kishore Baitha, Village- Pamra, P.O.- Raghapur Bakhri, P.S. and District- Sitamarhi, Prakhand Teacher, Govt. Middle School Shahpur Shitalpatti, Anchal- Bathnaha, District- Sitamarhi.
8. Birendra Kumar S/o Brahmedo Rai, Village and P.O.- Singhwahini, District- Sitamarhi, Prakhand Teacher, Govt. Middle School Turkauliya, Anchal- Bathnaha, District- Sitamarhi.
9. Ravi Shankar Kumar S/o Shri Arun Kumar Chaudhary, Village and P.O.- Singhwahini, District- Sitamarhi, Prakhand Teacher, Govt. Middle School Basbatti, Anchal- Bathnaha, District- Sitamarhi.
10. Praneeta Kumari D/o Shri Narendra Chaudhary, Village and P.O.- Tara Bariyarpur, P.O.- Khodabandpur, District- Begusarai, Prakhand Teacher Govt. Middle School Yogiwana Bazar, Anchal- Bathnaha, District- Sitamarhi.
11. Mili Kumari D/o Shivchandara Mahto, Village and P.O.- Ghanshyampur, P.S.- Aurai, District- Muzaffarpur, Prakhand Teacher, Govt. Middle School Kishanpur, Anchal- Bathnaha, District- Sitamarhi.
12. Dhirendra Kumar S/o Rambabu Singh, Village and P.O.- Bangav, P.S.- Bajpatti, District- Sitamarhi, Prakhand Teacher, Govt. Middle School Kishanpur, Anchal- Bathnaha, District- Sitamarhi.
13. Dipti Kumari D/o Shri Randhir Prasad Singh, Village Kharshan, P.S.- Gia, District- Sitamarhi, Prakhand Teacher, Govt. Middle School Pokharbhinda, Anchal- Bathnaha, District- Sitamarhi.
14. Rupa Kumari D/o Keshri Nandan Prasad, Village- Nandan Niwas, P.O.- Motihari, District- East Champaran, Prakhand Teacher, Govt. Middle School



Singhrahiya, Anchal- Bathnaha, District- Sitamarhi.

15. Sunit Kumari D/o Jageshwar Prasad, Village- Dumra, Ward No. 6, Jail Road, P.S.- Dumra, District- Sitamarhi, Prakhand Teacher, Govt. Middle School Singhrahiya, Anchal- Bathnaha, District- Sitamarhi.
16. Shambhu Kumar S/o Sri Rambabu Prasad, Village and P.O.- Rasalpur, P.S.- Majorganj, District- Sitamarhi, Prakhand Teacher, Govt. Middle School Sonbarsa, Anchal- Bathnaha, District- Sitamarhi.
17. Santosh Kumar S/o Sri Kapildeo Rai, Village and P.O.- Paktola, P.S.- Dumra, District- Sitamarhi, Prakhand Teacher, Govt. Middle School Gattipur, Anchal- Bathnaha, District- Sitamarhi.
18. Prakash Kumar Singh S/o Shri Randhir Prasad Singh, Village and P.O.- Kharshan, P.S.- Riga, District- Sitamarhi, Govt. Middle School Orlahiya, Anchal- Bathnaha, District- Sitamarhi.
19. Sudhir Kumar Gupta S/o Shri Ved Narayan Gupta, Village and P.O.- Raghobpur Bakhri, District- Sitamarhi, Prakhand Teacher, Govt. Middle School Turkauliya, Anchal- Bathnaha, District- Sitamarhi.
20. Shiv Shankar Singh S/o Shri Rajendra Singh, Village- Majkothwa, P.S. and P.O.- Majorganj, District- Sitamarhi, Prakhand Teacher, Govt. Middle School Naudah, Anchal- Bathnaha, District- Sitamarhi.
21. Nitu Devi D/o Shri Sikandara Baitha, Village- Pamra, P.O.- Raghobpur Bakhri, P.S. and District- Sitamarhi, Prakhand Teacher, Govt. Middle School Bishanpur Kamaldah, Anchal- Bathnaha, District- Sitamarhi.
22. Subhash Kumar S/o Chandeshwar Rai, Village- Sundarpur, P.O.- Bagraha, P.S.- Sursand, District- Sitamarhi, Prakhand Teacher, Govt. Middle School Dihati, Anchal- Bathnaha, District- Sitamarhi.
23. Pushpanjli Kumari D/o Rajmahal Singh, Village- Doghara, P.O.- Sahbajpur, P.S.- Riga, District- Sitamarhi, Prakhand Teacher, Govt. Middle School Pokharvinda, Anchal- Bathnaha, District- Sitamarhi.
24. Pallavi Kumari D/o Anand Kumar Jha, Village- Belisarai, P.O.- Motihari Sadar, P.S. and District- Motihari, Prakhand Teacher, Govt. Middle School Yogiwanbazar, Anchal- Bathnaha, District- Sitamarhi.
25. Aditya Saurabh S/o Shri Bhagya Narayan Chaudhary, Village- Pratap Nagar, P.S. and District- Sitamarhi, Prakhand Teacher, Govt. Middle School Basbatti, Anchal- Bathnaha, District- Sitamarhi.
26. Subodh Kumar S/o Sukhdeo Sah, Village and P.O.- Godaulsharif, P.S.- Nanpur, District- Sitamarhi, Prakhand Teacher Govt. Middle School Shahpur Shittalpatti, Anchal- Bathnaha, District- Sitamarhi.
27. Rachna Kumari D/o Naresh Prasad Verma, Village- Sahbajpur, P.S.- Bochha, District- Muzaffarpur, Prakhand Teacher, Govt. Middle School Sonbarsa, Anchal- Bathnaha, District- Sitamarhi.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Govt. of Bihar, Patna.
2. The Additional Chief Secretary-cum- the Principal Secretary, Department of Education, Government of Bihar, Patna.



3. The Director, Primary Education, Government of Bihar, Patna.
 4. The District Magistrate, Sitamarhi.
 5. The District Education Officer, Sitamarhi.
 6. The District Programme Officer (Establishment), Sitamarhi.
 7. The Secretary-cum-Block Development Officer, Block Employment Unit, Bathnaha, District- Sitamarhi.
 8. The Block Panchayati Raj Officer, Bathnaha, District- Sitamarhi.
 9. The Block Education Officer, Bathnaha, District- Sitamarhi.
- Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Mrigank Mauli, Sr. Adv Mr.Umesh Kumar Mishra, Adv
For the Respondent/s	:	Mr. Kumar Alok, Standing Counsel (07) Mr. Rakesh Kumar, AC to SC 7

CORAM: HONOURABLE MR. JUSTICE ALOK KUMAR SINHA
CAV JUDGMENT
Date : 15-05-2026

Heard the parties

2. The present writ application has been filed essentially seeking the following reliefs:

“(I) For issuance of an appropriate writ in the nature of certiorari for quashing the order dated 25.04.2025 passed by the learned Chairman, the State Appellate Authority, Bihar, Patna in Case No. Appeal -T/159/2024 (The District Programme Officer (Establishment), Sitamarhi VS. Shri Shambhu Das and Others.) by which, the appeal filed by the District (Establishment), District Programme Officer Sitamarhi against the order passed by the learned District Appellate Authority, Sitamarhi on 20.06.2024 in the Case No. 168/2010 and 79/2023, has been allowed and the order of the learned District Teacher Employment Appellate Authority, Sitamarhi has been set aside cancelling the selection of the petitioners from the date of their



*appointment and the Block Development Officer, Bathnaha, Sitamarhi has been directed to remove the petitioners from service and in view of **R. Vishwanath Pillai vs. State of Kerala and Others** reported in (2004) 16 AIC 278, no payment will be admissible to them by virtue of their cancelled appointment.*

(II) For issuance of an appropriate writ in the nature of mandamus for commanding and directing the respondent authorities concerned, to allow the petitioners to function as Prakhanda Teachers in their respective schools without any hindrance along with payment of arrears of salary as well as current salary.”

3. Learned counsel for the petitioners submits that the petitioners, being fully eligible and qualified candidates, had applied for appointment on the post of Prakhanda Teachers in Block Teacher Employment Unit, Bathnaha, District-Sitamarhi under the Bihar Elementary Teachers Appointment Rules, 2008. It is submitted that under the statutory framework, a provision of appeal was also available before the District Teacher Employment Appellate Authority against arbitrary non-selection of eligible candidates.

4. Learned counsel further submits that pursuant to the press communiqué issued by the Human Resource Development Department, Government of Bihar, published on 31.07.2010, the date for counselling and distribution of appointment letters in the



second phase of teachers' employment was fixed as 12.08.2010. The said press communiqué has been brought on record as Annexure-P1. It is further submitted that subsequently the Principal Secretary, Education Department, Bihar issued Memo No. 1475 dated 04.12.2010 fixing 28.12.2010 as the last date for completion of the second phase appointment process and specifically clarified that disputed cases pending before the Appellate Authority could still be considered pursuant to orders passed by such authority. The consequential departmental communication has also been relied upon by the petitioners.

It is submitted that in Bathnaha Block, though counselling commenced on 12.08.2010, serious irregularities occurred due to disputes between the then Secretary of the Block Teacher Employment Unit and the Prakhanda Pramukh. Learned counsel submits that despite the petitioners having participated in the counselling and their documents having been verified, appointment letters were not issued to them. It is submitted that the counselling proceedings were disrupted and the original counselling register was allegedly taken away by the Block Education Officer. Thereafter, on the intervention of the Deputy Development Commissioner, counselling of another 32



candidates, including the present petitioners, was conducted on departmental registers and their documents were verified.

5. Learned counsel for the petitioners submits that being aggrieved by arbitrary denial of appointment despite participation in counselling, the petitioners immediately approached the authorities. Representations were submitted before the Senior Deputy Development Commissioner-cum-D.D.C., Sitamarhi on 19.08.2010 and the matter was referred for enquiry before the District Teacher Appellate Authority. Simultaneously, the petitioners filed appeals before the learned District Teacher Appellate Authority, Sitamarhi within the prescribed period, which were registered as Case Nos. 167/2010 and 168/2010. Copies of the complaints and newspaper publications highlighting the irregularities have been annexed as Annexure-P2 series.

It is further submitted that the Education Department itself, by Memo No. 207 dated 21.02.2011 (Annexure-P3), lifted the earlier embargo and directed consideration of cases of those candidates who had applied in accordance with law but were denied appointment due to the prevailing dispute and ban. Learned counsel submits that even the Senior Deputy Collector, Sitamarhi had acknowledged the irregularities in the Bathnaha Block teacher appointment process and communicated the same to the District



Teacher Appellate Authority vide Letter No. 1407 dated 29.11.2010, brought on record as Annexure-P4.

6. Learned counsel submits that during pendency of the appellate proceedings, the learned District Teacher Appellate Authority passed an interim order dated 23.12.2010 (Annexure-P5) directing the authorities to permit the concerned candidates to participate in counselling on the date fixed by the Government and further directed production of all records relating to the selection process. It is further submitted that even the then Block Education Officer-cum-Secretary, Block Employment Committee requested adjournment before the Appellate Authority in the concerned cases vide Letter No. 395 dated 06.12.2010, annexed as Annexure-P6.

7. Learned counsel submits that after detailed consideration of the entire records and circumstances, the learned District Teacher Appellate Authority, Sitamarhi passed a final order dated 28.02.2011(Annexure-P7) in Case Nos. 104, 167, 168 and 198 of 2010, holding the petitioners to be genuine candidates who had duly participated in counselling on 12.08.2010 and directing issuance of appointment letters to 29 candidates. However, despite the categorical direction of the Appellate Authority, the order remained unimplemented, primarily because



the post of Presiding Officer of the District Teacher Appellate Authority remained vacant for a considerable period.

It is further submitted that after the Appellate Authority became functional again, some of the petitioners moved applications for revival/reconsideration of the earlier proceedings (Annexure-P8), which came to be registered as Case No. 79/2023. Learned counsel submits that notices were thereafter issued to the respondents and reports were called for by the Appellate Authority vide Annexure-P9 and Annexure-P11.

8. Learned counsel places heavy reliance upon the report submitted by the Block Development Officer-cum-Secretary, Block Employment Committee, Bathnaha vide Letter No. 54(Ni.) dated 15.06.2024, annexed as Annexure-P12. It is submitted that in the said report, the authorities themselves admitted that counselling of the petitioners and other candidates had in fact taken place, that there had been disturbances during counselling, and that out of the 32 candidates similarly situated, two candidates, namely Usha Bhagat and Bindu Kumari, had already been granted appointment pursuant to the appellate orders. According to learned counsel, the said report conclusively establishes that the petitioners were genuine candidates who had



participated in the counselling process and were illegally deprived of appointment.

It is further submitted that after considering all materials on record, the learned District Teacher Appellate Authority, Sitamarhi finally allowed Case No. 168/2010 and Case No. 79/2023 vide order dated 20.06.2024 directing issuance of appointment letters to the remaining candidates, including the petitioners. The said order has been annexed as Annexure-P13 and its consequential communications as Annexure-P14.

9. Learned counsel submits that in compliance of the aforesaid order, the Block Teacher Employment Committee convened meetings, verified records and documents of the petitioners, sought posting options from them, and thereafter issued appointment letters in favour of the petitioners between 29.06.2024 and 05.07.2024. The relevant communications and proceedings have been annexed as Annexure-P16, Annexure-P17, Annexure-P18, Annexure-P19 and Annexure-P20 series. It is submitted that after issuance of appointment letters, the petitioners joined their respective schools and their joining was duly verified and authenticated by the competent authorities. The communications regarding verification and acceptance of joining have been annexed as Annexure-P21 series.



10. Learned counsel submits that the petitioners have thereafter continuously discharged their duties as Prakhanda Teachers and some of them were even deputed for official training programmes conducted by DIET, Kumarbagh, West Champaran pursuant to directions issued by the District Education Officer, Sitamarhi. The certificates and departmental memos relating thereto have been annexed as Annexure-P/22 series and Annexure-P/23 series respectively. According to learned counsel, the same clearly demonstrates that the petitioners were treated by the authorities themselves as duly appointed teachers and permitted to continue in service.

11. Learned counsel for the petitioners further submits that the insistence of the respondent authorities upon obtaining prior approval from the District Education Officer, Sitamarhi before implementation of the orders passed by the District Teacher Appellate Authority is wholly misconceived, illegal and contrary to settled departmental instructions. It is submitted that Memo No. 2718 dated 27.10.2023 issued by the District Education Officer, Sitamarhi, whereby such prior approval was sought to be mandated, has itself been set aside by the learned District Teachers Appellate Authority, Sitamarhi in Case No. 34/2023 and 73/2023 (Surendra Ram vs. District Education Officer, Sitamarhi).



12. Learned counsel submits that despite the aforesaid order setting aside Memo No. 2718 dated 27.10.2023, the District Education Officer and District Programme Officer (Establishment), Sitamarhi have continued to rely upon the said non-existent communication only with a view to obstruct implementation of the lawful orders passed in favour of the petitioners. It is submitted that such conduct is not only arbitrary but also contemptuous in nature, particularly when the authorities were already aware of Memo No. 998 dated 03.10.2017 issued by the Director, Primary Education and consequential Memo No. 2635 dated 31.10.2017, whereby implementation of appellate orders had been duly recognised. Learned counsel further submits that even Letter No. 606 dated 17.05.2016 issued by the Director, Primary Education, relied upon by the respondents, already stood recalled as evident from Memo No. 998 dated 03.10.2017. The said communications have been brought on record as Annexure-P26 and Annexure-P15 series.

It is further submitted that the District Programme Officer (Establishment), Sitamarhi, with mala fide intention and solely to harass the petitioners, preferred Appeal No. T/159/2024 before the learned State Appellate Authority challenging the order dated 20.06.2024 passed by the learned District Teacher Appellate



Authority, Sitamarhi. Learned counsel submits that the appeal was filed by suppressing material facts, particularly the fact that the petitioners had already been issued appointment letters, had joined their respective schools and had been continuously discharging their duties. It is submitted that the communications relating to issuance of appointment letters and joining had already been forwarded to the office of the District Programme Officer (Establishment), Sitamarhi, yet the said facts were deliberately withheld from the learned State Appellate Authority.

13. Learned counsel further submits that after grant of interim stay by the learned State Appellate Authority on 20.02.2025, the District Programme Officer (Establishment), Sitamarhi exceeded his jurisdiction and restrained the petitioners from marking attendance and discharging duties by issuing directions to the concerned Headmasters. It is submitted that such action was taken even though the interim order merely stayed operation of the appellate order and did not direct discontinuance of service of the petitioners. Memo No. 690 dated 08.03.2025 issued by the District Programme Officer (Establishment), Sitamarhi has been annexed as Annexure-P/29.

14. Learned counsel submits that the petitioners appeared before the learned State Appellate Authority and filed



detailed replies along with supporting documents demonstrating that they were genuine and duly selected candidates appointed pursuant to lawful orders of the District Teacher Appellate Authority. However, their submissions and documents were not properly considered.

In support of the petitioners' case, learned counsel has relied upon several judgments and precedents relating to appointments of Panchayat/Prakhand Teachers under the Bihar Elementary Teachers Employment Rules, 2008. Reliance has been placed upon the judgment passed in **C.W.J.C. No. 277 of 2012 (Ashok Prasad Yadav and Others vs. State of Bihar and Others)**, decided on 06.01.2022, wherein this Court held that:

“From the impugned order of the Appellate Authority it is clear that on account of earlier Block Education Extension Officer being arrested on the charge of corruption and later on, on being released from custody, his non-cooperation in handing over the relevant papers of the pending selection process to the successor Block Education Extension Officer, process of selection could not be completed. The entire paper was also not produced before the Appellate Authority. Hence, in paragraph 16 of the order, the Appellate Authority has directed the District Education Officer, Muzaffarpur to get all the papers collected and complete the selection process for appointment of Teachers in the Block which remained pending due to unforeseeable circumstances. However, the Appellate



Authority has not accepted the plea of the petitioners that an order should be issued for fresh appointment

This Court considers that the approach of the Appellate authority has been correct as unless and until selection process is completed and the Employment Agency finds the petitioners fit for appointment on the basis of the merit list after completing the process of selection, the Appellate Authority could not issue orders for their appointment. But that does not mean that, if after completing the selection process, petitioners are found eligible for appointment, they cannot be considered for the same on account of the fact that their claim at this stage has been rejected by the Appellate Authority. The last date of completion of process of selection was 28.12.2010. However, it could not be completed because of the circumstances beyond the control of the candidates and other authorities. Hence the Employment Agency in the process of compliance of the order of the Appellate Authority will be at liberty to seek specific permission from the Department for completing the process and making appointment from the finalized merit list for filling up posts.

The writ application is disposed of with the aforesaid observations and directions.”

15. Learned counsel has further placed strong reliance upon the judgment passed by this Hon'ble Court in **C.W.J.C. No. 19754 of 2021 (Upendra Kumar and Others vs. State of Bihar and Others)**, decided on 19.09.2022, wherein the Hon'ble Court



set aside an order of the State Appellate Authority cancelling appointments of similarly situated teachers and upheld the order of the District Teacher Appellate Authority. It is submitted that this Court specifically held that once appointments had already been made and candidates had joined service, such appointments could not be termed illegal or fraudulent merely on presumptions regarding carried forward vacancies or expired panels. The said judgment has been annexed as Annexure-P/28.

16. Learned counsel submits that the petitioners' case stands on a much stronger footing inasmuch as the petitioners had approached the District Teacher Appellate Authority immediately in the year 2010 itself against irregularities committed in the counselling process and had continuously pursued their remedies before the competent forums. It is submitted that the petitioners cannot be penalized for the lapses, disputes and administrative failures committed by the authorities themselves.

It is further submitted that the learned State Appellate Authority failed to appreciate that the vacancies pertaining to a particular selection process cannot be merged or carried forward to future selection cycles once litigation concerning such vacancies is pending before a court or appellate forum. Learned counsel submits that this legal position clearly emerges from



Memo No. 1475 dated 04.12.2010 issued by the Principal Secretary, Education Department and Memo No. 998 dated 03.10.2017 issued by the Director, Primary Education. Therefore, according to learned counsel, the finding recorded by the learned State Appellate Authority that the appointments related to “carried forward vacancies from an expired panel” is wholly unsustainable.

17. Learned counsel further submits that the appeal preferred before the learned State Appellate Authority itself was hopelessly barred by limitation and no plausible explanation for condonation of delay was ever furnished by the appellants. However, the learned State Appellate Authority failed to consider the issue of delay and laches altogether. It is submitted that the learned State Appellate Authority has been mechanically passing stereotyped and format-based orders in all matters relating to teacher appointments of the years 2008 and 2010 without independently appreciating the peculiar facts of each case. Learned counsel submits that in several such matters, this Hon’ble High Court has already interfered with or stayed similar orders passed by the State Appellate Authority.

18. Learned counsel submits that the judgments relied upon by the learned State Appellate Authority, including **R. Vishwanath Pillai vs. State of Kerala**, are wholly distinguishable



and inapplicable to the facts of the present case. It is argued that the present case does not involve fraud, forged certificates or illegal entry into service by the petitioners; rather, the petitioners were deprived of appointment due to administrative irregularities and disturbances during counselling despite having participated in the process and having been found eligible.

It is further submitted that the learned State Appellate Authority also failed to appreciate that the petitioners had approached the appellate forum promptly in the year 2010 itself and that even the District Teacher Appellate Authority had earlier passed orders in their favour on 28.02.2011 directing issuance of appointment letters. Learned counsel submits that the petitioners cannot be made to suffer merely because the said order remained unimplemented due to administrative lapses and prolonged vacancy of the post of Presiding Officer of the Appellate Authority.

19. Learned counsel has also questioned the manner in which the impugned final order dated 25.04.2025 was delivered. It is submitted that though the matter was fixed for final orders on 25.04.2025 and the petitioners had sought permission to file supplementary affidavit, the order appears to have been pronounced on 17.04.2025 itself without any explanation or prior



intimation. According to learned counsel, the same casts serious doubt upon the procedure adopted by the learned State Appellate Authority.

It is further submitted that the impugned order is wholly without jurisdiction as the same has been passed by a single Administrative Officer contrary to Rule 4(3) of the Rules, 2015, which contemplates a proper quorum for the State Appellate Authority. Reliance in this regard has been placed upon the judgment passed by this Hon'ble Court in **C.W.J.C. No. 17508 of 2021 (Pradip Kumar Yadav @ Pradeep Kumar Yadav and Others vs. State of Bihar and Others)**, decided on 17.04.2025, wherein this Hon'ble Court remitted similar matters back to the State Appellate Authority with directions regarding proper constitution and adjudication by the competent quorum. The said judgment has been annexed as Annexure-P/31.

20. Learned counsel submits that the petitioners possess all requisite qualifications, have not committed any fraud or misrepresentation and have continuously pursued their lawful claim since the year 2010. It is submitted that after having served as Prakhanda Teachers pursuant to valid appointment letters and after discharging duties to the satisfaction of the authorities, the petitioners are being subjected to unnecessary harassment and



arbitrary deprivation of livelihood. It is, therefore, submitted that the impugned order dated 25.04.2025 passed by the learned State Appellate Authority, Bihar, Patna in Appeal No. T/159/2024 is liable to be quashed and the petitioners are entitled to continue as Prakhanda Teachers with all consequential benefits including arrears and current salary.

I.A. No. 01 of 2025.

21. During pendency of the writ petition, the petitioners filed the present interlocutory application seeking amendment of the prayer portion of the writ petition so as to challenge Memo No. 1325 dated 26.04.2025 issued by the District Education Officer, Sitamarhi directing the Block Development Officer, Bathnaha to cancel the selection/appointment of the petitioners pursuant to the order passed by the learned State Appellate Authority, Bihar, Patna in Appeal No. T/159/2024. The petitioners have contended that the impugned memo has been issued mechanically and in haste, without application of mind and without following the mandatory procedure prescribed under Rule 15(ख) of the Bihar Primary Teacher Appointment Rules, 2012. It has specifically been pleaded that no departmental proceeding or opportunity of hearing has been granted to the petitioners before directing cancellation of their services, though the petitioners are



holding civil posts under the State and are entitled to protection of principles of natural justice.

22. The petitioners have further relied upon the judgment of the Hon'ble Supreme Court in **Kamal Nayan Mishra vs State of M.P. & Ors.** to contend that termination from service without enquiry and hearing is illegal in the eyes of law. Reliance has also been placed upon the order passed by the Hon'ble Patna High Court in CWJC No. 17508 of 2021 and analogous cases to submit that the order of the learned State Appellate Authority itself is legally unsustainable as the same was passed contrary to Rule 4(3) of the Rules, 2015. The petitioners have also asserted that they are duly qualified and trained teachers, have already discharged duties for considerable period, acquired teaching experience and completed teachers' training course and, therefore, equity also lies in favour of their continuation in service.

Accordingly, the petitioners have prayed for quashing of Memo No. 1325 dated 26.04.2025 and for stay of its operation during pendency of the writ petition, along with a direction upon the respondent authorities to permit the petitioners to continue as Prakhanda Teachers with payment of salary and consequential benefits.



I.A. No. 02 of 2025.

23. Subsequently, during pendency of the writ petition as well as I.A. No. 01 of 2025, the petitioners filed the present interlocutory application seeking amendment of the writ petition for challenging consequential Memo No. 458 dated 22.05.2025 issued under the signature of the Block Development Officer-cum-Secretary, Block Teacher Employment Unit, Bathnaha, Sitamarhi. By the aforesaid memo, issued in compliance of the order passed by the learned State Appellate Authority, Bihar, Patna in Appeal No. T/159/2024 and Memo No. 1325 dated 26.04.2025 issued by the District Education Officer, Sitamarhi, the services of the petitioners were directed to be cancelled from the date of their appointment and consequential directions were issued to the Block Education Officer and concerned Headmasters for implementation of the same, though the order was made subject to the outcome of CWJC No. 7889 of 2025.

24. The petitioners have challenged the said consequential action as arbitrary, illegal and unsustainable in law on the ground that the petitioners were appointed pursuant to the order passed by the learned District Teacher Employment Appellate Authority, Sitamarhi and have continuously discharged duties as Prakhanda Teachers. It has further been pleaded that the



respondent authorities were fully aware that the petitioners had already challenged the order of the learned State Appellate Authority before the Hon'ble High Court, yet coercive action was taken during pendency of the writ proceedings. The petitioners have also reiterated that they possess requisite qualifications, have completed in-service teachers' training and Dakshata Examination and have acquired substantial teaching experience and, therefore, their continuation in service is necessary in the interest of justice.

Accordingly, the petitioners have prayed for quashing of Memo No. 458 dated 22.05.2025 and for stay of its operation during pendency of the writ petition, with consequential direction upon the respondent authorities to allow the petitioners to continue as Prakhanda Teachers along with payment of salary and other consequential benefits.

25. *Per Contra*, Learned counsel appearing on behalf of Respondent Nos. 5 and 6 submits that the present writ petition is misconceived, devoid of merit and fit to be dismissed, as the learned State Appellate Authority, Bihar, Patna has rightly and legally set aside the order dated 20.06.2024 passed by the learned District Teacher Appellate Authority, Sitamarhi in Case No. 168/2010 and 79/2023.



It has been submitted that the first phase of appointment of Panchayat/Prakhand Teachers concluded in the year 2007 and the remaining vacancies were carried forward to the second phase of 2008, which itself concluded by December, 2010 with a specific departmental direction that no appointment would be made after 31.12.2010 and all remaining vacancies would stand carried forward to the subsequent phase. According to the respondents, despite the expiry of the entire selection process and exhaustion of vacancies, the learned District Appellate Authority illegally directed appointment of the petitioners in the year 2024 against vacancies of the year 2008, contrary to departmental rules and guidelines.

26. Learned counsel further submits that the petitioners had approached the District Appellate Authority after an inordinate delay of nearly 12 to 15 years and the learned District Appellate Authority failed to consider such delay, the change in recruitment rules, completion of several subsequent phases of appointment and exhaustion of earlier vacancies. It has also been contended that if the earlier orders were not implemented in the year 2011 itself, the petitioners ought to have approached this Hon'ble Court earlier instead of remaining silent for several years.



It has been further submitted that the Block Development Officer-cum-Secretary, Bathnaha illegally issued appointment letters to the petitioners under the cover of the order passed by the learned District Appellate Authority despite there being no available vacancy or departmental approval. The respondents have alleged that such appointments were made in complete violation of departmental procedure and without proper consultation with the Block Education Officer, who was an ex-officio member of the Block Teacher Employment Unit.

27. In this regard, reliance has been placed upon Letter No. 235 dated 07.08.2024 issued by the Block Education Officer, Bathnaha stating that he was neither informed nor included in the meeting relating to the appointments of the petitioners and that the records pertaining to such appointments were also not supplied to him. On this basis, the respondents have contended that the entire appointment process itself was invalid and contrary to the applicable rules.

28. Learned counsel for the respondents has also submitted that the petitioners are wrongly relying upon Memo No. 998 dated 03.10.2017, as the said circular does not prohibit filing of appeal before the State Appellate Authority against an erroneous order passed by the District Appellate Authority. So far



as the challenge to the order passed by the learned State Appellate Authority is concerned, it has been submitted that the said authority, after granting adequate opportunity of hearing to all parties, rightly set aside the order of the learned District Appellate Authority and declared the appointments of the petitioners illegal and invalid. It has further been contended that the consequential actions taken through Memo No. 1325 dated 26.04.2025 issued by the District Education Officer, Sitamarhi and Memo No. 458 dated 22.05.2025 issued by the Block Development Officer-cum-Secretary, Block Teacher Employment Unit, Bathnaha were merely in compliance of the order passed by the learned State Appellate Authority. The respondents have also asserted that the judgments and orders relied upon by the petitioners in paragraphs 53 to 55 of the writ petition are distinguishable on facts and are not applicable to the present case.

29. Learned counsel further submits that the State authorities acted bona fide and strictly in accordance with departmental rules and guidelines and that the present writ petition is based upon incorrect and misleading statements. It has accordingly been prayed that the writ petition as well as the interlocutory applications filed by the petitioners be dismissed.



30. Learned counsel for Respondent No. 7 submits that the interlocutory application filed by the petitioners for quashing Memo No. 458 dated 22.05.2025 is misconceived and not fit to be allowed. It is submitted that the said memo was issued only in compliance of the order dated 25.04.2025/17.04.2025 passed by the learned State Appellate Authority, Bihar, Patna in Appeal No. T-159/2024 as well as the consequential direction issued by the District Education Officer, Sitamarhi vide Letter No. 1325 dated 26.04.2025.

31. Learned counsel while recapitulating the facts of the case submits that the dispute relates to the second phase of teacher employment of 2008, wherein counselling of candidates was conducted on 12.08.2010. Due to disputes between the Block Education Officer and the Prakhanda Pramukh, appointment letters could not be issued to certain candidates, following which several cases including Case No. 168/2010 were instituted before the District Teachers Employment Appellate Authority, Sitamarhi.

It is submitted that during the proceedings before the District Appellate Authority, orders were passed permitting certain candidates to participate in counselling held on 28.12.2010 and some candidates were accordingly appointed on 31.12.2010, whereas others including Shambhu Das were not issued



appointment letters. Thereafter, Contempt Case No. 79/2023 was filed and ultimately, by order dated 20.06.2024 passed in Case No. 168/2010 and 79/2023, the learned District Appellate Authority directed issuance of appointment letters to the petitioners.

32. Learned counsel submits that in compliance of the aforesaid order, appointment letters were issued to the petitioners by the Block Teacher Employment Unit, Bathnaha after verification of educational and training certificates and the petitioners joined their respective posts. It is further submitted that the aforesaid order dated 20.06.2024 was challenged before the learned State Appellate Authority, Bihar, Patna in Appeal No. T-159/2024 filed by the District Programme Officer (Establishment), Sitamarhi and the learned State Appellate Authority, by order dated 25.04.2025/17.04.2025, set aside the order of the District Appellate Authority and cancelled the appointments of the private respondents including the present petitioners from the date of appointment itself.

33. Learned counsel submits that thereafter the District Education Officer, Sitamarhi communicated the aforesaid order to the Block Development Officer, Bathnaha for compliance. Pursuant thereto, notices were issued to the petitioners asking them to submit their explanation and after



consideration of their replies and the decision taken in the meeting of the Block Teacher Employment Unit held on 21.05.2025, Memo No. 458 dated 22.05.2025 was issued cancelling the appointments of the petitioners.

It is lastly submitted that the action taken by the authorities was in compliance of the appellate order and after providing opportunity to the petitioners to submit their explanation. Reliance has also been placed upon Letter No. 465 dated 09.07.2012 issued by the Principal Secretary, Education Department to contend that previous vacancies, except disputed vacancies, are to be merged with subsequent vacancies, and therefore the petitioners cannot claim appointment against old vacancies of the 2008 selection process. Accordingly, it is prayed that the interlocutory application filed by the petitioners be rejected.

ISSUES FOR CONSIDERATION

1. Whether the order dated 25.04.2025/17.04.2025 passed by the learned State Appellate Authority, Bihar, Patna in Appeal No. T-159/2024, whereby the order dated 20.06.2024 passed by the learned District Teachers Appellate Authority, Sitamarhi has been set aside and the appointments of the petitioners have been cancelled, is sustainable in the eyes of law,



particularly in view of the departmental circulars, the long pendency of the dispute since the 2008 selection process, the findings recorded by the District Appellate Authority, and the judgments relied upon by the petitioners with regard to continuation of appointments arising out of disputed vacancies?

2. Whether the consequential actions taken by the respondent authorities, including Memo No. 1325 dated 26.04.2025 issued by the District Education Officer, Sitamarhi and Memo No. 458 dated 22.05.2025 issued by the Block Development Officer-cum-Secretary, Block Teacher Employment Unit, Bathnaha, cancelling the services of the petitioners, are legally valid and in conformity with the principles of natural justice and the procedure prescribed under the relevant service rules, particularly when the petitioners had already joined and discharged duties pursuant to the order passed by the learned District Teachers Appellate Authority?

3. Whether the petitioners, who claim to have participated in the counselling process of the 2008 selection, pursued their grievances before the competent appellate authorities since the year 2010, and were ultimately appointed pursuant to judicial/quasi-judicial orders, can be denied continuation in service and salary on the ground that the vacancies



had allegedly lapsed or merged into subsequent phases of appointment, despite there being pending litigation and departmental instructions regarding disputed vacancies?

FINDINGS:

Issue 1. Whether the order dated 25.04.2025/17.04.2025 passed by the learned State Appellate Authority, Bihar, Patna in Appeal No. T-159/2024, whereby the order dated 20.06.2024 passed by the learned District Teachers Appellate Authority, Sitamarhi has been set aside and the appointments of the petitioners have been cancelled, is sustainable in the eyes of law, particularly in view of the departmental circulars, the long pendency of the dispute since the 2008 selection process, the findings recorded by the District Appellate Authority, and the judgments relied upon by the petitioners with regard to continuation of appointments arising out of disputed vacancies?

Finding on Issue 1: The aforesaid issue goes to the very root of the present writ application and this Court is required to examine as to whether the learned State Appellate Authority, Bihar, Patna was justified in setting aside the order dated 20.06.2024 passed by the learned District Teachers Appellate Authority, Sitamarhi and consequently cancelling the



appointments of the petitioners, who were appointed pursuant to a long pending dispute arising out of the 2008 selection process.

From the materials available on record, it appears that the grievance of the petitioners does not arise out of any fresh claim raised after closure of the selection process, rather the petitioners had been agitating their grievances since the very inception of the 2008-10 selection process. The records would show that the petitioners had participated in the counselling process and their grievance was that despite being otherwise eligible and despite availability of vacancies, appointment letters were not issued to them due to administrative irregularities and disputes between the authorities concerned. It further appears that immediately after such irregularities, representations and proceedings were initiated before the competent authority and ultimately the matter reached the learned District Teachers Appellate Authority, Sitamarhi.

The learned District Appellate Authority, while passing the order dated 20.06.2024 in Case No. 168/2010 and 79/2023, appears to have taken into consideration not only the records relating to the counselling process but also the departmental circulars and communications issued from time to time by the Education Department. The said authority recorded a



categorical finding that the petitioners had been deprived of appointment due to circumstances beyond their control and that the authorities concerned had failed to implement the directions issued by the Department regarding completion of the counselling and appointment process.

At this stage, it becomes relevant to refer to Letter No. 1475 dated 04.12.2010 issued by the Principal Secretary, Education Department, as also Memo No. 861 dated 13.12.2010 communicated by the District Superintendent of Education, Sitamarhi, wherein directions had been issued regarding completion of counselling and appointment against the remaining vacancies. The relevant extract of the said communications are quoted here:

“the selection letter be ensured to the candidates on the fixed date after counseling. After expiry of the fix date no selection letter will be legal. Simultaneously, no selection will be done after the fix date and the 2nd phase appointment will be deemed to be completed. Only the disputed cases by the order of the appellate authority or in the light of the special direction of the Department the employment might be done”

The learned District Appellate Authority has specifically relied upon the said departmental communications



while directing issuance of appointment letters in favour of the petitioners.

Similarly, Memo No. 998 dated 03.10.2017 issued by the Director, Primary Education, Bihar, Patna assumes considerable significance in the facts of the present case. From perusal of the said memo, it prima facie appears that the Department itself had clarified that vacancies relating to a particular selection process cannot automatically be treated as extinguished if the dispute concerning such vacancies is pending before a competent forum. The said circular also appears to have recalled earlier instructions which had created confusion regarding carrying forward of vacancies.

The learned State Appellate Authority, however, while setting aside the order of the learned District Appellate Authority, primarily proceeded on the reasoning that the first and second phases of appointment had already concluded and the vacancies stood carried forward to subsequent phases. In the considered opinion of this Court, such reasoning does not appear to be fully sustainable in the peculiar facts of the present case.

The present case is not one where stale claims are being raised by persons who remained silent for years together without pursuing their remedies. Rather, the materials on record



indicate continuous litigation and pursuit of remedies by the petitioners from the year 2010 itself. The delay in culmination of the proceedings cannot entirely be attributed to the petitioners, particularly when the functioning of the appellate authorities remained affected for considerable periods and the dispute itself remained pending before competent forums.

The learned State Appellate Authority also appears to have overlooked the settled principle that a candidate cannot ordinarily be made to suffer for administrative lapses or inter se disputes between authorities, especially when the candidate has approached the appropriate forum within reasonable time. Once the petitioners had questioned their non-selection before the competent appellate authority during the subsistence of the selection dispute, the vacancies relating to such dispute could not have been mechanically merged with future vacancies so as to defeat their legitimate claim.

In this regard, the judgment rendered by this Court in **C.W.J.C. No. 19754 of 2021 (Upendra Kumar and Others vs. State of Bihar and Others)**, annexed as Annexure-P/28, assumes importance. In the said judgment, this Court categorically observed that once appointments had been made pursuant to the orders of the District Appellate Authority and the candidates had



already joined and discharged duties, their appointments ought not to be interfered with merely on presumptions that the vacancies had merged into subsequent phases. This Court further held that the State Appellate Authority had exceeded its jurisdiction by proceeding on extraneous considerations. The relevant observations of this Court is reproduced herein for perusal:

“This Court finds that such observations are totally beyond the scope of the case and the State Appellate Authority has proceeded to take notice of facts which are not required to be considered for the disposal of the appeal. There was no direction by the District Appellate Authority or observation that the selection process of 2008 stands closed nor it was the case that the posts have merged with the third phase of selection. When the petitioners had already joined no case of shifting of vacancies to next selection process can be presumed. Such presumptions drawn by the State Appellate Authority is found to be without basis. Observations as in para 13 noticed above are based on extraneous considerations. In the opinion of this court the State Appellate Authority has gone beyond its jurisdiction.

Further this Court also notices that the interpretation of the order of the District Appellate Authority as taken by the State Appellate Authority is also mis-conceived. The District Appellate Authority has rightly directed to consider the case of the petitioners for appointments. Appointments could not have been directed to be made by the authority as the appointment is the exclusive domain of the employing unit.

Further, there is no requirement of counselling when a final merit has already been prepared and on the said basis candidates who are



placed in the merit cannot be deprived of their right for consideration for employment. The State Appellate Authority has failed to take notice that appointments were already made and the candidates had already started working on the post, their appointments cannot be said to be illegal or fraudulent. In view thereof, the order passed by the State Appellate Authority is found to be without basis. The judgments cited by the based State Appellate are on a wrong interpretation of the order of the District Appellate Authority and therefore would have no application. The order therefore deserves to be set aside and is accordingly set aside. The order of the District Appellate Authority is upheld. The appointments made in pursuance thereof need not be interfered. The petitioners shall be allowed to continue in the posts.

The writ petition is accordingly allowed with all consequential benefits. No costs.”

Likewise, the judgment passed in **C.W.J.C. No. 277 of 2012 (Ashok Prasad Yadav and Others vs. State of Bihar and Others)**, annexed as Annexure-P/27, also supports the proposition that where the selection process could not be completed due to circumstances beyond the control of candidates and authorities, the candidates cannot be deprived of consideration merely because time has elapsed. This Court in the said case recognized the power of the authorities to complete the pending process and make appointments from the finalized merit list after obtaining necessary permission from the Department. The relevant portion of the said judgment is quoted herein for ready reference:



"From the impugned order of the Appellate Authority it is clear that on account of earlier Block Education Extension Officer being arrested on the charge of corruption and later on, on being released from custody, his non-cooperation in handing over the relevant papers of the pending selection process to the successor Block Education Extension Officer, process of selection could not be completed. The entire paper was also not produced before the Appellate Authority. Hence, in paragraph 16 of the order, the Appellate Authority has directed the District Education Officer, Muzaffarpur to get all the papers collected and complete the selection process for appointment of Teachers in the Block which remained pending due to unforeseeable circumstances. However, the Appellate Authority has not accepted the plea of the petitioners that an order should be issued for fresh appointment.

This Court considers that the approach of the Appellate authority has been correct as unless and until selection process is completed and the Employment Agency finds the petitioners fit for appointment on the basis of the merit list after completing the process of selection, the Appellate Authority could not issue orders for their appointment. But that does not mean that, if after completing the selection process, petitioners are found eligible for appointment, they cannot be considered for the same on account of the fact that their claim at this stage has been rejected by the Appellate Authority. The last date of completion of process of selection was 28.12.2010. However, it could not be completed because of the circumstances beyond the control of the candidates and other



authorities. Hence the Employment Agency in the process of compliance of the order of the Appellate Authority will be at liberty to seek specific permission from the Department for completing the process and making appointment from the finalized merit list for filling up posts.

The writ application is disposed of with the aforesaid observations and directions.”

Further, the petitioners have specifically challenged the legality of the order passed by the learned State Appellate Authority on the ground that the same was passed by a single administrative member despite the statutory requirement of quorum under Rule 4(3) of the Rules, 2015. In this regard, reliance has rightly been placed upon the order dated 17.04.2025 passed in **C.W.J.C. No. 17508 of 2021 (Pradip Kumar Yadav @ Pradeep Kumar Yadav and Others vs. State of Bihar and Others)**, annexed as Annexure-P/31, wherein this Hon’ble Court observed that matters pending before the State Appellate Authority are required to be decided in accordance with the prescribed quorum. The said issue assumes significance because the legality of the very composition of the authority goes to the root of the decision-making process.

The learned State Appellate Authority also appears to have placed heavy reliance upon the judgment rendered in **R.**



Vishwanath Pillai vs. State of Kerala and Others for cancelling the appointments from the very date of appointment and for denying salary to the petitioners. However, the factual foundation of the present case appears entirely different. This is not a case involving fraud, forged certificates, impersonation or misrepresentation by the petitioners. There is no allegation that the petitioners lacked the requisite qualification or had secured appointment by deceitful means. On the contrary, the materials on record indicate that the petitioners were found eligible and were appointed pursuant to orders passed by a competent appellate authority after considering the records of the case. Therefore, the principles applicable in cases involving fraudulent appointments cannot be mechanically applied to the facts of the present case.

Moreover, it is not in dispute that after issuance of appointment letters pursuant to the order dated 20.06.2024, the petitioners joined their respective schools and discharged duties. The respondent authorities themselves permitted such joining and accepted work from the petitioners for a considerable period. Therefore, the abrupt cancellation of appointments solely on the basis of the appellate order, without properly considering the peculiar factual background and the departmental circulars



governing disputed vacancies, appears arbitrary and disproportionate.

Thus, upon overall consideration of the facts, departmental circulars, findings recorded by the learned District Appellate Authority and the judgments relied upon by the petitioners, this Court is of the opinion that the order dated 25.04.2025/17.04.2025 passed by the learned State Appellate Authority, Bihar, Patna suffers from non-consideration of relevant materials, erroneous application of law relating to disputed vacancies, and failure to appreciate the continuous pendency of the dispute since the original selection process. Consequently, the impugned order is not fully sustainable in the eyes of law.

Issue 2. Whether the consequential actions taken by the respondent authorities, including Memo No. 1325 dated 26.04.2025 issued by the District Education Officer, Sitamarhi and Memo No. 458 dated 22.05.2025 issued by the Block Development Officer-cum-Secretary, Block Teacher Employment Unit, Bathnaha, cancelling the services of the petitioners, are legally valid and in conformity with the principles of natural justice and the procedure prescribed under the relevant service rules, particularly when the petitioners had already joined and discharged duties pursuant



to the order passed by the learned District Teachers Appellate Authority?

The second issue relates to the legality and validity of the consequential actions taken by the respondent authorities pursuant to the order passed by the learned State Appellate Authority, namely Memo No. 1325 dated 26.04.2025 issued by the District Education Officer, Sitamarhi and Memo No. 458 dated 22.05.2025 issued by the Block Development Officer-cum-Secretary, Block Teacher Employment Unit, Bathnaha, whereby the services of the petitioners came to be cancelled.

At the outset, it is necessary to note that the petitioners were not merely candidates awaiting consideration, rather they had already been issued appointment letters pursuant to the order dated 20.06.2024 passed by the learned District Teachers Appellate Authority, Sitamarhi and thereafter they had joined their respective places of posting and discharged duties as Prakhanda Teachers. Therefore, on the date when the impugned consequential orders came to be issued, the petitioners were admittedly working against civil posts under the State and their appointments had attained a certain degree of operational finality unless set aside in accordance with law.



The principal grievance of the petitioners is that the authorities proceeded to cancel their services in a mechanical manner merely on the basis of the appellate order without independently complying with the procedural safeguards contemplated under the service rules and principles of natural justice.

From the records, it appears that immediately after the order dated 25.04.2025/17.04.2025 was passed by the learned State Appellate Authority, the District Education Officer, Sitamarhi issued Memo No. 1325 dated 26.04.2025 directing the Block Development Officer, Bathnaha to cancel the appointments of the petitioners within a fortnight. The speed with which the direction was issued, even during pendency of the writ proceedings, lends substance to the grievance of the petitioners that the authorities had already made up their minds to remove them from service without objectively considering the legal consequences involved.

The petitioners have specifically relied upon Rule 15 (Chha) of the Bihar Primary Teacher Appointment Rules, 2012 to contend that termination or cancellation of appointment cannot be effected without following due procedure and without affording reasonable opportunity of hearing to the affected employees. The



requirement of adherence to principles of natural justice in matters affecting civil consequences is now too well settled to require elaborate discussion.

Though the respondents have attempted to justify the action by stating that notices were issued to the petitioners prior to passing Memo No. 458 dated 22.05.2025, the materials on record indicate that such exercise was merely formal in nature and not a meaningful adjudicatory process. The notices appear to have been issued only after the decision to cancel the appointments had substantially been taken in view of the directions flowing from the State Appellate Authority. The authorities do not appear to have independently examined whether the appointments of the petitioners suffered from any fraud, misrepresentation or disqualification warranting removal from service with retrospective effect.

It further appears that the cancellation orders were passed in a collective and generalized manner without examining the individual cases of the petitioners separately. Such a course of action, particularly in service matters involving livelihood and civil consequences, cannot ordinarily be approved in law.

In this context, the judgment of the Hon'ble Supreme Court in **Kamal Nayan Mishra vs. State of M.P. & Others (210**



AIR SCW 315), relied upon by the petitioners in the interlocutory application, assumes relevance. In the said judgment, the Hon'ble Supreme Court emphasized that termination from service without proper inquiry and opportunity of hearing is unsustainable in law.

The facts of the present case further show that there is no allegation that the petitioners had secured appointment by producing forged documents or by practicing fraud upon the authorities. The entire dispute essentially revolves around legality of appointments arising out of an old selection process and interpretation of departmental guidelines concerning disputed vacancies. Therefore, before directing cancellation of service from the very date of appointment, the authorities were required to act with greater caution and fairness.

Another important aspect which cannot be overlooked is that Memo No. 458 dated 22.05.2025 itself records that the order would remain subject to the final outcome of C.W.J.C. No. 7889 of 2025. This itself indicates that the authorities were conscious of the pendency of judicial scrutiny before this Court. Once the matter was sub judice and substantial legal questions concerning the validity of the appointments were already under consideration before this Court, the respondent authorities ought



to have exercised restraint instead of precipitating the matter by giving immediate effect to the cancellation orders.

The action of the authorities also appears inconsistent with the settled principle that where appointments are made pursuant to orders passed by a competent judicial or quasi-judicial authority, such appointments cannot lightly be nullified through administrative instructions without full adjudicatory consideration. The petitioners had joined service not through any clandestine process but pursuant to an order passed by the learned District Teachers Appellate Authority after hearing the parties and considering the records. Consequently, the respondent authorities were required to proceed in a legally balanced manner while dealing with the issue of cancellation.

It is also significant that the consequential orders direct cancellation of appointments from the very date of appointment itself. Such retrospective invalidation carries serious civil and financial consequences, including denial of salary and continuity of service. Any order producing such drastic consequences must satisfy strict standards of fairness, proportionality and procedural compliance. the impugned consequential actions, therefore, do not appear to satisfy such requirements.



Thus, upon consideration of the manner in which Memo No. 1325 dated 26.04.2025 and Memo No. 458 dated 22.05.2025 were issued, this Court is of the opinion that the respondent authorities proceeded in undue haste and failed to ensure a fair, independent and legally sustainable decision-making process before cancelling the services of the petitioners. Accordingly, the consequential actions taken against the petitioners do not appear to be fully consistent with the principles of natural justice and the procedural safeguards governing termination from service.

Issue 3. Whether the petitioners, who claim to have participated in the counselling process of the 2008 selection, pursued their grievances before the competent appellate authorities since the year 2010, and were ultimately appointed pursuant to judicial/quasi-judicial orders, can be denied continuation in service and salary on the ground that the vacancies had allegedly lapsed or merged into subsequent phases of appointment, despite there being pending litigation and departmental instructions regarding disputed vacancies?

Finding on Issue No.3

This Court finds that the controversy involved in the present case is not merely with respect to delayed appointment,



but relates to the effect of long pending litigation arising out of a disputed selection process and the rights flowing from an adjudicatory order passed in favour of the petitioners after consideration of such dispute by the competent authority.

The stand of the respondent authorities is essentially that the vacancies relating to the 2008 appointment process had exhausted or stood carried forward to subsequent phases of appointment and, therefore, no appointment could legally be granted after completion of the recruitment phase. However, such submission cannot be examined in isolation divorced from the peculiar facts of the present case.

The materials brought on record show that the petitioners had asserted their grievance with regard to non-consideration in the counselling process since the year 2010 itself. The case of the petitioners is not that they approached the authorities for the first time after closure of the recruitment process; rather, their grievance originated contemporaneously with the recruitment exercise itself and remained pending before the appellate forums for years together.

From the records, it further appears that proceedings relating to Case No. 168/2010 remained pending before the learned District Appellate Authority and thereafter Complaint



Case No. 79/2023 was also instituted seeking disposal and implementation of the pending dispute which in effect was for revival/reconsideration of the earlier order passed in Case No. 168 of 2010, and was not a new case. Ultimately, after hearing the parties and considering the departmental communications relating to counselling and remaining vacancies, the learned District Appellate Authority, Sitamarhi passed the order dated 20.06.2024 directing issuance of appointment letters to the petitioners.

Thus, the appointments granted to the petitioners were not fresh appointments dehors the process, nor appointments made by creation of supernumerary posts or by bypassing the statutory procedure. Their appointments emanated from adjudication of a dispute which had its roots in the original 2008 selection itself. This distinction assumes considerable importance. The respondent authorities have heavily relied upon the plea that the vacancies had already merged into subsequent recruitment cycles. However, the petitioners have specifically relied upon departmental instructions regarding disputed vacancies, particularly the communication referred to in the pleadings and annexures, to contend that disputed vacancies were required to be treated separately and could not automatically lapse merely because subsequent phases of recruitment had taken place.



At this stage, it becomes relevant to note that the learned District Appellate Authority while passing the order dated 20.06.2024 had taken into consideration the departmental communications issued in relation to counselling and remaining vacancies. The authority had also recorded findings regarding non-compliance of departmental directions relating to counselling of eligible candidates. Therefore, the order in favour of the petitioners was not passed in ignorance of the recruitment history but after examining the peculiar circumstances arising out of the pending dispute.

This Court further finds that the respondents have not brought on record any material conclusively demonstrating that the vacancies forming subject matter of the dispute had ceased to exist for all purposes despite pendency of litigation since 2010. **Mere completion of subsequent recruitment phases cannot automatically extinguish rights arising out of pending disputes, particularly where the candidates had already invoked the jurisdiction of the competent authority within reasonable time and the matter remained sub judice for years. A litigant cannot ordinarily be made to suffer solely because adjudication by the authority took considerable time.**



The petitioners cannot be faulted for the prolonged pendency before the appellate authority, especially when the records show that notices were issued from time to time and the matter continued before the competent forum. If ultimately the learned District Appellate Authority found merit in the grievance of the petitioners and directed their appointments, the consequences arising therefrom could not have been nullified merely by referring to subsequent recruitment phases without adequately addressing the effect of the pending litigation and disputed vacancies.

Another important aspect which deserves consideration is that after issuance of appointment letters, the petitioners were permitted to join and discharge duties. The respondent authorities accepted their joining and treated them as serving teachers. The petitioners also underwent training and acquired teaching experience during their continuance in service. Therefore, the appointments were not merely paper appointments but appointments acted upon by the authorities themselves.

In such circumstances, abrupt denial of continuation in service and salary solely on the ground that the vacancies allegedly stood merged with future recruitment cycles would result in serious prejudice to the petitioners, particularly when



their appointments originated from adjudication of a long pending dispute connected with the original selection process itself.

This Court is also of the considered opinion that the issue involved herein is not a case of unauthorized entry into service through fraud or manipulation. The petitioners were appointed pursuant to an adjudicatory order passed by a competent authority and through the official process of the Block Teacher Employment Unit. Therefore, equitable considerations also operate in favour of the petitioners.

The departmental instructions relating to disputed vacancies, as relied upon by the petitioners, also lend support to the proposition that vacancies involved in pending disputes could not have been treated identically with ordinary unfilled vacancies liable to automatic carry forward.

In view of the discussions made hereinabove, this Court is of the considered opinion that the petitioners, who had pursued their grievances since the year 2010 and were ultimately appointed pursuant to the order passed by the learned District Appellate Authority, could not have been denied continuation in service and salary merely on the ground that the vacancies had allegedly lapsed or merged into subsequent phases of recruitment, particularly when the dispute itself remained pending throughout



and departmental instructions regarding disputed vacancies were available on record. Accordingly, this issue is answered in favour of the petitioners.

34. Upon hearing learned counsels for the parties at length, considering the rival submissions advanced on their behalf, and upon careful perusal of the pleadings, annexures and materials available on record, this Court is of the considered view that the impugned order dated 25.04.2025/17.04.2025 passed by the learned State Appellate Authority, Bihar, Patna in Appeal No. T-159/2024 is not sustainable in the eyes of law.

35. This Court finds that the petitioners had participated in the selection process pursuant to the recruitment relating to the year 2008 and had raised their grievance before the competent appellate forum within the framework of law. Their claim remained pending for a considerable period and was ultimately adjudicated by the learned District Teacher Employment Appellate Authority, Sitamarhi, which, upon appreciation of the relevant materials and departmental communications, directed issuance of appointment letters in favour of the petitioners. The appointments so granted were not de hors the process, but were made pursuant to a judicial/quasi-judicial order passed by a competent statutory authority and were



thereafter duly acted upon by the respondents themselves. This Court further finds that the learned State Appellate Authority, while setting aside the order of the learned District Appellate Authority and directing cancellation of the petitioners' appointments, failed to adequately appreciate the legal effect of the prolonged pendency of the dispute, the departmental instructions relating to disputed vacancies, and the fact that the petitioners had already entered service and discharged duties pursuant to valid appointment orders.

36. Moreover, the consequential actions taken by the respondent authorities in cancelling the appointments of the petitioners and denying them continuation in service and salary, without adherence to proper procedural safeguards and without any finding of fraud or misconduct attributable to the petitioners, cannot be sustained. The petitioners cannot be made to suffer for administrative delay or prolonged pendency of proceedings before the competent authorities, particularly when their appointments arose from adjudication of a long-pending dispute and have already been acted upon.

37. Accordingly, for the reasons recorded hereinabove, the writ application is allowed. The order dated 25.04.2025/17.04.2025 passed by the learned State Appellate



Authority, Bihar, Patna in Appeal No. T-159/2024 is hereby quashed and set aside. Consequently, the consequential memo no. 1325 dated 26.04.2025 issued under the signature of the District Education Officer, Sitamarhi, and memo no. 458 dated 22.05.2025 issued under the signature of the Block Development Officer-cum-Secretary, Block Teacher Employment Unit, Bathnaha, Sitamarhi, are also hereby quashed.

38. The respondent authorities are directed to restore and allow the petitioners to continue on their respective posts forthwith and to permit them to discharge their duties without any hindrance. The petitioners shall also be entitled to continuity of service and all consequential service benefits, including payment of arrears of salary as well as current salary, in accordance with law.

39. The writ application is allowed on the aforesaid terms. There shall be no order as to costs. All pending interlocutory applications, if any, shall stand disposed of accordingly.

(Alok Kumar Sinha, J)

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AFR/NAFR	AFR
CAV DATE	05.05.2026.
Uploading Date	15.05.2026.
Transmission Date	N/A

