

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2314 of 2018

Chanchala Kumari @ Munni Devi Wife of Shri Anil Kumar Singh @ Anil Singh, Resident of Village- Bishnupur Chak Pahar, Post Office- Madhopur Hajari, Police Station- Sahebganj, District- Muzaffarpur.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. The Principal Secretary, Education Department, Govt. of Bihar, Patna.
3. The Director, Primary Education, Bihar, Patna.
4. The District Magistrate, Muzaffarpur.
5. The Deputy Development Commissioner-cum-Chairman, District Education Establishment Committee, Muzaf
6. The District Education Officer, Muzaffarpur.
7. The District Programme Officer Establishment Muzaffarpur. null null
8. The Block Development Officer, Sahebganj, District- Muzaffarpur.
9. The Block Education Officer, Sahebganj, District- Muzaffarpur.
10. The Mukhiya, Gram Panchayat Raj Bangra Nizamat, Block- Sahebganj, District- Muzaffarpur.
11. The Panchayat Secretary of Gra, Panchayat Raj Bangra Nizamat, Block- Sahebganj, District- Muzaffarp
12. Archana Kumari, Daughter of Shri Uday Kumar Singh, Resident of Village- Bangra Nizamat, Post Office- Madhopur Hajari, Police Station- Sahebganj, District- Muzaffarpur. at present posted and working as Panchayat/Prakhand Teacher in Govt. Middle School Bangra Nizamat, Block- Sahebganj, District- Muzaffarpur.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr., Shashi Bhushan Singh, Advocate Mr. Anil Kumar, Advocate
For respondent NO.12	:	Mr. Bipin Bihari Singh, Advocate Mr. Sunil Kumar Singh, Advocate Mr. Rakesh Kumar, Advocate
For the Respondent/s	:	Mr. Mrigendra Kumar, Advocate Mr. Rajeev Ranjan, A.C. to G.P.-20.

CORAM: HONOURABLE MR. JUSTICE ALOK KUMAR SINHA
ORAL JUDGMENT

Date : 13-01-2026



Heard learned counsel for the petitioner, learned counsel for the respondent-State and learned counsel for respondent No.12.

2. The petitioner in the present writ petition has prayed for grant of following relief :-

(I) For issuance of an appropriate writ in the nature of certiorari for quashing the order dated 29.11.2017 passed in Token No.-Appeal/659/2017 Chanchala Kumari @ Munni Devi Vs. The State of Bihar & Ors by which the learned Chairperson of State Appellate Authority, Patna filed by the petitioner has been pleased to disallow the said appeal without appreciating the entire facts, circumstances and the legal proposition of the present case.

(II) For issuance of an appropriate writ in the nature of certiorari for quashing the order dated 23.05.2011 passed the Case No. 51 of 2011 (Chanchala Kumari @ Munni Devi Vs. The District Superintendent of Education, Muzaffarpur & Ors) as contained in memo no. 161 dated 23.05.2011 passed and issued under the signature of the learned Member District Teachers Employment Appellate Authority, Muzaffarpur, by which the appellant's appeal is being rejected on erroneous ground.

(III) For issuance of an appropriate writ in the nature of mandamus for commanding and directing the respondent authorities concerned to consider the case of the petitioner in the light of the decision of the Division Bench, in which this Hon'ble High Court has held that the candidate who has been selected who is not entitled to be selected and by suppression of facts and initial entry in the service on the basis of fraud cannot be allowed to be continued as fraud vitiates all and the genuine candidate cannot be made to suffer.

(IV) For issuance of any other appropriate writ/writs, order/orders, direction/directions for which the writ petitioner will be found entitled in the facts and circumstances of the case.



3. The crux of the matter is that the petitioner has challenged the appointment of respondent No.12 stating that her appointment as Shiksha Mitra was illegal and void ab initio for two reasons :-

(i) The residential certificate produced by respondent No.12 was actually a residential certificate of another person by the same name of Archana Kumari. He, therefore, submits that on the basis of wrong residential certificate, respondent No.12 secured her appointment as Shiksha Mitra.

(ii) The Mukhiya of the Gram Panchayat at the relevant point of time was the grand father of respondent No.12 and hence being a family member, he could not have appointed respondent No.12 as Shiksha Mitra.

4. Learned counsel appearing for the petitioner further submits that in view of the above illegalities existing in the appointment of respondent No.12, her appointment as Shiksha Mitra be set aside and in her place, the petitioner should be directed to be appointed as Shiksha Mitra as the petitioner was having a higher position in the merit list.

5. In support of the argument that if the initial appointment itself is illegal then the same can be questioned at any stage, he relies upon a Division Bench judgment of this Court



delivered in **L.P.A. No.376 of 2022** reported in **2023(1) PLJR 75**.

Further, in support of his argument that no appointment can be done by a family member, he relies upon another Judgment of this Court dated 25.11.2016 passed in **L.P.A. No.1225 of 2016**.

6. Per contra, learned counsel appearing for respondent No.12 submits that the Full Bench decision of this Court in the case of **Kalpana Rani Vs. State of Bihar** reported in **2014 (2) PLJR 665**, the impact of promulgation of the scheme of absorption has been discussed at length and the ratio displayed from the said pronouncement of the Full Bench, which is unanimous, it is clear that once the scheme of absorption has come into force, then any person claiming a right to be pointed as Shiksha Mitra cannot be reopened thereafter as the very post stands abolished with effect from 01.07.2006. Learned counsel for respondent No.12, therefore, further submits that in view of the law laid down by the Full Bench of this Court in the case of **Kalpana Rani (Supra)**, the petitioner does not get any right to get appointment in place of respondent No.12 as, admittedly, the petitioner was never appointed as Shiksha Mitra. The Scheme of Shiksha Mitra having been abandoned on 01.07.2006, there is no occasion now to consider the dispute raised by the petitioner for appointment as Shiksha Mitra.



7. Having considered the submissions made by both the parties, this Court is of the view that although the petitioner may have a good ground to assail the initial appointment of respondent No.12 as Shiksha Mitra but with the coming into effect of the promulgation of the scheme of absorption and taking note of the ratio of the judgment of the Full Bench delivered in the case of **Kalpana Rani (Supra)**, the petitioner has lost the right not only to challenge the appointment of respondent No.1 as Shiksha Mitra but also the right to be appointed in her place after 01.07.2006.

8. It is once again clarified that the post of Shiksha Mitra stands abolished with effect from 01.07.2006, and therefore, the petitioner does not have any existing right to claim appointment because admittedly, the petitioner was never appointed as a Shiksha Mitra in the past. The scheme of Shiksha Mitra having been abandoned on 01.07.2006, there is no occasion now to consider the dispute raised by the appellant for appointment as Shiksha Mitra.

9. In such view of the matter it may not be appropriate to interfere with the appointment of respondent No.12 at the instance of the petitioner who has been unable to carve out any right for herself for interference by this Court. This writ petition is accordingly dismissed as the relief claimed for in the present writ



application cannot be granted in light of decision of Full Bench of this Court in the case of **Kalpana Rani (Supra)** followed by another judgment of this Court dated 25.01.2019 passed in **L.P.A. No.2299 of 2016** in the case of **Neha Raj Vs. State of Bihar and others.**

10. Writ petition is accordingly dismissed.

(Alok Kumar Sinha, J)

sanjeev/-

AFR/NAFR	
CAV DATE	
Uploading Date	13.01.2026
Transmission Date	

