

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10568 of 2024

-
-
1. Nitu Kumari Daughter of Sri Ramnath Chaudhary, Resident of Village and Post-Gerabari Bazar, Police Station-Kodha, District-Katihar.
 2. Bindu Kumari, Daughter of Sri Shivnandan Sah, Resident of Mohalla-Gerabari Bazar, Police Station-Kodha, District-Katihar.
 3. Ritu Kumari, Daughter of Murli Bhagat, Resident of Village-Lahsa, Police Station-Mansahi, District-Katihar.
 4. Satyajeet Kumar Singh, son of Late Kinkar Singh, Resident of Village-Indrapuri, Police Station-Katihar, District-Katihar.

... .. Petitioner/s

Versus

1. The State of Bihar through the Additional Chief Secretary, Education Department, Govt. of Bihar, Patna.
2. The Director, Primary Education, Govt. of Bihar, Patna.
3. The District Magistrate, Katihar.
4. The District Education Officer, Katihar.
5. The District Programme Officer (Establishment), Katihar.
6. The Block Development Officer, Mansahi, Katihar.
7. The Block Education Officer, Mansahi, Katihar.
8. The Engagement Unit, Gram Panchayat Raj Fulhara, Block-Mansahi, District-Katihar.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr.Ranjan Kumar Singh, Adv.
For the State	:	Mr.Ajay Behari Sinha, GA 8
		Mr. Upendra Kr. Singh, AC to GA 8
For the Res. No. 8	:	Ms. Shilpi Keshari, Adv.

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL JUDGMENT

Date : 06-01-2026

Heard Mr. Ranjan Kumar Singh, learned Advocate
for the petitioners and Mr. Ajay Behari Sinha, learned Senior
Advocate for the State. The respondent No. 8 is represented
through Ms. Shilpi Keshari, learned Advocate.

2. The petitioners are aggrieved with the order



passed in Case No. Appeal T-941/2022 by which the appeal preferred by the respondent No. 8 has been allowed after setting aside the order dated 10.12.2020 passed in Appeal No. 20/2019 by the District Appellate Authority, Katihar. The respondent State Appellate Authority by the order impugned also pleased to cancel the appointment of the private respondents, the petitioners herein, with effect from their appointment within the fortnight and the concerned Panchayat Secretary has also been directed to recover the amount, if any, paid to them, in accordance with law.

3. Learned Advocate for the petitioners narrating the short facts of the case has submitted that in connection with the appointment of the Panchayat Teachers, some of the candidates had approached this Court in CWJC No. 5920 of 2011, titled as **Saroj Kumar & Ors. vs. The State of Bihar & Ors.** which came to be disposed of along with other analogous cases with a direction to the Employment Unit of Gram Panchayat Raj, Phulhara, Manashi in the district of Katihar for fresh counselling within the stipulated period. Aggrieved with the said order, the State of Bihar preferred Civil Review Appeal No. 456 of 2013 which came to be rejected on 14.05.2014. In terms with the order passed by this Court, 14 Primary Teachers were provided



their engagement letters, out of total 20 vacancies. The petitioners having strengthen with the afore noted order, preferred Appeal bearing No. 20/2019 before the District Appellate Authority, Katihar. The afore noted authority having considered the claim of the petitioners, directed the Panchayat Teachers Employment Unit, Phulhara to facilitate the counselling and ensure employment within a month.

4. Notwithstanding the order passed by the District Appellate Authority, when the counselling of the petitioners could not be done, they approached this Court by filing CWJC No. 5234 of 2024 and the Court directed the Presiding Officer, District Appellate Authority, Katihar to dispose of the contempt petition within a period of six weeks. In the meanwhile, the Panchayat Secretary-cum Secretary, Panchayat Teacher Employment Unit has preferred a review application before the District Appellate Authority bearing No. 01/2021. While the review application was pending consideration, again the said Panchayat Secretary preferred an appeal against the order of the District Appellate Authority bearing Appeal No. T-941/2022.

5. Learned Advocate for the petitioners referring to the aforesaid facts submitted that surprisingly the State Appellate Authority despite having taken note of the fact that



once the appellant cum Panchayat Secretary has already preferred review application, therefore he cannot be allowed to seek two remedies simultaneously before the two forums but despite the aforesaid fact, entertained the appeal and allowed the appellant cum Panchayat Secretary to withdraw the review application and pursue the appeal. Taking this Court through the impugned order, learned Advocate for the petitioners further submits that bare perusal of the same, it is crystal clear that the State Appellate Authority also passed the impugned order without proper application of mind directing for cancellation of the appointment of the petitioner, irrespective of the fact that the petitioners had neither been appointed nor any salary has been extended to them. It is further informed to this Court that till date even the counselling could not have been done in pursuant to the order of the District Appellate Authority.

6. A counter affidavit has been filed on behalf of the respondent No. 5 in support of the impugned order passed by the State Appellate Authority. It is submitted that the first phase of the appointment of Panchayat Teachers, 2006 has already come to its closure on 31.12.2010 and the posts which remained vacant have been carried forward for the next transaction. Learned Senior Advocate further submitted that the



District Appellate Authority was not the competent authority to adjudicate the issue pertaining to the first phase of appointment, at the first instance, for the reason that in matters pertaining to first phase of appointment, the concerned BDO was the competent authority to adjudicate the same. It has also been brought to the notice of the Court that the State Government has come out with a letter bearing No. 1769 dated 24.11.2014 that all the remaining unfilled vacancies under the 2006 or 2008 Rules must be filled up on or by 31.01.2015 and thereafter no appointment shall be made against any of the vacancies which have not been filled up in terms with the Rules 2006/2008/2012 as the appointment of the teachers shall be made amongst the eligible candidates, who are having requisite qualification of Teachers Eligibility Test.

7. Ms. Shilpi Keshari, learned Advocate for the respondent No. 8 also supported the order passed by the State Appellate Authority.

8. Having considered the submissions advanced by the learned Advocates for the respective parties and taking note of the order passed by the State Appellate Authority, this Court finds substance in the submissions of the learned Advocate for the petitioners to the extent that the order has been passed



without application of mind. It is the admitted position that till date neither counselling of the petitioners has been done nor the petitioners had ever been appointed or paid any remuneration/salary. This Court also finds that the appeal filed by the Panchayat Secretary cum Secretary, Panchayat Teachers Employment Unit during the pendency of the review application ought not to be entertained once the State Appellate Authority has been duly informed that the Employment Unit has preferred review application; nonetheless they have pursued with the appeal, besides the fact the order also suffers from *coram non judice* as there is no legal member.

9. It would be pertinent to observe here that under Rule 4(3) of the Bihar State School Teachers and Employees Disputes Redressal Rules, 2015 (in short 'Rules, 2015') clearly mandates that the State Appellate Authority shall be consisting of two members, out of which Chairperson shall be a retired Judge of the Hon'ble High Court and the another Member shall be a retired officer of the Indian Administrative Service, not below the rank of Principal Secretary. In the case at hand, the impugned order has been passed by the Chairperson of the Indian Administrative Service in absence of the Chairperson(legal), who will be a retired Justice of the Hon'ble High Court. The



identical issue has also come up for consideration in the case of ***State of Gujarat Vs. Utility Welfare Association [(2018) 6 SCC 21 : 2018 SCC OnLine SC 368]***, wherein the Court in its penultimate paragraph Nos. 117 and 118 observed as follows:

“117. In Madras Bar Assn. [Madras Bar Assn. v. Union of India, (2014) 10 SCC 1] (MJ-II), the Constitution Bench, referring to the decision in Madras Bar Assn. [Union of India v. Madras Bar Assn., (2010) 11 SCC 1] (MJ-I) observed that members of tribunals discharging judicial functions could only be drawn from sources possessed of expertise in law and competent to discharge judicial functions. We are conscious of the fact that the case (MJ-I) dealt with a factual matrix where the powers vested in courts were sought to be transferred to the tribunal, but what is relevant is the aspect of judicial functions with all the “trappings of the court” and exercise of judicial power; at least, in respect of same part of the functioning of the State Commission. Thus, if the Chairman of the Commission is not a man of law, there should, at least, be a member who is drawn from the legal field. The observations of the Constitution Bench in Madras Bar Assn. [Madras Bar Assn. v. Union of India, (2014) 10 SCC 1] (MJ-II) constitute a declaration on the concept of basic structure with reference to the concepts of “separation of powers”, “rule of law” and “judicial review”. The first question raised before the Constitution Bench as to whether judicial review was part of the basic structure of the Constitution was, thus, answered in the affirmative.

118. We are, thus, of the view that it is mandatory to have a person of law, as a member of the State Commission. When we say so, it does not imply



that any person from the field of law can be picked up. It has to be a person, who is, or has been holding a judicial office or is a person possessing professional qualifications with substantial experience in the practice of law, who has the requisite qualifications to have been appointed as a Judge of the High Court or a District Judge.”

10. Similar matters have also come up for consideration in CWJC No. 17508 of 2021 along with CWJC No. 17406 of 2021, where the learned coordinate Bench of this Court having considered the afore noted prescription of Rules 2015 and the judgment in the case of ***State of Gujarat Vs. Utility Welfare Association*** held that a person, who does not possess qualification to have been appointed as a Judge of the High court or the District Court cannot hold the post of Chairperson and set aside the order passed by the one Member of the State Appellate Authority, who belongs to the Indian Administrative Service and relegated the matter to the State Appellate Authority for disposal of the appeal by the duly constituted State Appellate Authority.

11. For all these reasons, this Court finds that the impugned order is fit to be set aside. Accordingly, the order passed by the State Appellate Authority in Case No. Appeal T-941/2022 is set aside. For the ends of justice, the matter is relegated to the State Appellate Authority, who shall take up the



appeal afresh and decide the same after giving proper opportunity of hearing to all concerned, preferably within a period of three months from the date of receipt/production of a copy of this order.

12. The writ petition stands allowed in the afore noted observations.

13. The records as was called for by this Court in pursuant to the order dated 11.11.2025 is returned to the office of the learned Senior Advocate of the State.

(Harish Kumar, J)

Anjani/-

AFR/NAFR	
CAV DATE	
Uploading Date	12 .01.2026
Transmission Date	

