

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.656 of 2025
In
Civil Writ Jurisdiction Case No.3887 of 2025

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. The Chief Secretary, Government of Bihar, Patna.
3. The Additional Chief Secretary, Department of Education, Government of Bihar, Patna.
4. The Director (Secondary Education), Education Department, Government of Bihar, New Secretariat, Vikas Bhawan, Bailey Road, Patna.
5. The Principal Secretary, General Administration Department, Government of Bihar, Patna.
6. The District Education Officer, East Champaran at Motihari.
7. The District Programme Officer (Establishment), East Champaran at Motihari.

... .. Appellants

Versus

1. Chitra Devi @ Kumari Chitra Devi D/o Ghanshyam Singh, Resident of Village - Rustampur Taqipuara Pooran, Post - Mahua, P.S. - Nehtaur, District- Bijnor (U.P.), presently posted as School Teacher (TRE-2), Class - 6-8 Subject Math and Science in Government Middle School, Bahuari, Block - Motihari, District- East Champaran at Motihari.
2. The Bihar Public Service Commission, Through its Chairman, 15, Jawaharlal Nehru Marg, Bailey Road, Patna.
3. The Chairman, Bihar Public Service Commission, Bihar, Patna.
4. The Secretary, Bihar Public Service Commission, Bihar Patna.
5. The Joint Secretary- cum- Examination Controller, Bihar Public Service Commission, Bihar, Patna.

... .. Respondents

Appearance :

For the Appellant/s	:	Mr. P.K. Shahi, Advocate General Ms. Surya Nilambari, Advocate
For the Respondent No.1:		Mr. Lalit Kishore, Sr. Advocate Mr. Nityanand Mishra, Advocate Mr. Alok Abhinav, Advocate Ms. Diksha Kumari, Advocate
For the Intervenor	:	Mr. Basant Kumar Choudhary, Sr. Advocate



Mr. Kanishka Shankar
Mr. Shashi Bhushan Kumar, Sr. Advocate
Mr. Shashi Bhushan Singh, Advocate

**CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL JUDGMENT
(Per: HONOURABLE THE CHIEF JUSTICE)**

Date : 31-03-2026

Re: Interlocutory Application No. 03 of 2025 in

Heard Mr. Basant Kumar Choudhary, learned Senior Counsel appearing for the applicant.

2. Considering the submission advanced by the learned Senior Counsel, we do not find any merit in the application. Accordingly, the intervention application stands dismissed.

Re: Letters Patent Appeal No. 656 of 2025

3. This Letters Patent Appeal has been filed by the State challenging the order dated 20.03.2025 passed by the learned Single Judge in C.W.J.C. No. 3887 of 2025 for setting aside the order of termination of the writ petitioner dated 07.02.2025 and further directing the Additional Chief Secretary, Education Department, Government of Bihar to take corrective action in accordance with law.

4. The writ petition was filed seeking for the following relief(s):

“For issuance of an appropriate writ in the nature of certiorari for



quashing and set aside the Letter No.1341 dated 15.05.2024 (Annexure P/10) issued under the signature of the Director Secondary Education (Respondent No.4) by which it has instructed to all District Education Officers under the State of Bihar to not provide benefit of reservation to the candidates belonging from other state coming under the category of female and disabled at par with the candidates of said category of the State of Bihar in Central Teacher's Eligibility Test (hereinafter CTET) and also for quashing the Memo No.547 dated 31.01.2025 (Annexure P/11) issued under the signature of the Respondent no.11 whereby and whereunder the petitioner has been directed to submit show cause reply to the effect that she has obtained less than 60 % marks in CTET, therefore, her appointment is liable to be canceled, the aforesaid notifications are contrary to conditions laid down in the Advertisement No.27 of 2023 dated 04.11.2023(Annexure P/1) by which following the procedure, the petitioner has been appointed as School teacher, moreover, the said notifications are in teeth of a letter issued by the then Director, Primary Education, Govt. of Bihar vide letter no.666 dated 13.07.2021 (Annexure P/14) in which female candidates either of the resident of Bihar or other States have been put under same category, more so the show cause is in contravention of law laid down by the Hon'ble Supreme Court by which no discrimination can be made on the ground of place of birth or residence.

(ii) For issuance of an



appropriate writ in the nature of mandamus, commanding and directing the respondents concerned to not disturb the petitioner in smooth functioning of the Government School. The petitioner as school teacher working in her appointed school as she has been appointed in pursuant to conditions laid down in Advertisement No.27 of 2023 dated 04.11.2023 (Annexure P/1) and at point of time she has not concealed any fact during the entire selection process and after due verification by the competent authority she have been appointed as school teacher.

(iii) Further for direction to the respondents concerned not to make any employment/selection/appointment in pace of the selected petitioner as school teacher.

(iv) For any other relief/reliefs for which the petitioner is entitled to in accordance with law."

5. It appears from the impugned order that the matter was taken up for the first time on 20.03.2025 and on that day, the Court considered the Interlocutory Application No. 01 of 2025, which has been filed by the petitioner for addition of some reliefs in paragraph no. 1 of the writ petition and the interim application was allowed and it was directed that the reliefs as prayed for in paragraph no. 1 of the Interlocutory Application be added in paragraph no. 1 of the main petition in addition to those already prayed for by the petitioner.

Needless to say that the necessity of filing the interim



application arose because during the pendency of the writ petition, the District Education Officer, East Champaran, Motihari, vide Memo No. 661 dated 07.02.2025, terminated the services of eight school teachers including the petitioner in accordance with the provision of Bihar Government Servants (Classification, Control and Appeal) Rules, 2005 and therefore, the said termination order was prayed for to be challenged by way of amendment to the prayer portion. However, it seems that on the very day, the matter was also taken up for final disposal and the impugned order was passed. The learned Single Judge, after noting down the contention of the respective parties and taking note of some decisions of the Hon'ble Supreme Court, came to hold that without holding a regular inquiry, the termination order could not have been passed without giving an opportunity of being heard and further the action has been taken by the District Education Officer who has no jurisdiction and therefore, the action taken by the authority is void.

6. The learned Advocate General submitted that when the matter was listed for consideration of the interim application in which a prayer was made for amendment of the prayer portion and it was allowed, without giving a reasonable opportunity to the State to file the counter affidavit, the matter



could not have taken up on merit and disposed of on the first day itself by passing the impugned order. It is further submitted that the grounds on which the impugned order of termination was set aside is not sustainable in the eyes of law and had the opportunity of filing the counter affidavit been afforded, the State could have been in a position to substantiate how such termination order is justified in the eyes of law. Referring to the Bihar State School Teachers (Appointment, Transfer, Disciplinary Proceedings and Services Conditions) Rules, 2023 which defines 'Appointing Authority' under Section 2 (xiv), the learned Advocate General contended that the District Education Officer is the competent authority to pass the order.

7. Learned Senior Advocate for the respondent on the other hand submitted that the order was not only passed by the District Education Officer only but jointly with the District Programme Officer and therefore, the learned Single Judge has rightly held it to be without jurisdiction.

So far as the second ground on which the relief has been granted to the writ petitioner, as per the submission of the learned Advocate General, there was no necessity of conducting any regular inquiry and affording opportunity of hearing and thereby fulfilling the requirement of Article 311(2) of the



Constitution of India. It is further argued that horizontal reservation provided under resolution as contained in Memo No. 963 dated 20.01.2016 was meant only for such women who were permanent residents of State of Bihar.

8. Be that as it may, we find that in view of the averments taken in the writ petition, the submission that has been advanced by the learned Counsel for the petitioner, the learned Single Judge should have given an opportunity to the State to file the counter affidavit and the same having not been done, the State has been deprived of the opportunity to justify the termination order. We are of the humble view that since State of Bihar was not afforded reasonable opportunity to file its counter affidavit, in such a situation, on the first date itself, the matter should not have been disposed of on merit. It is not a case where the State has declined or failed to file counter affidavit in spite of reasonable opportunity given. Accordingly, in the fitness of things, we are of the view that the matter should be remanded back for fresh consideration on merit in accordance with law before the learned Single Judge having roster of the matter giving due opportunity to the State to file counter affidavit.

9. It is made clear that we have not expressed any



opinion on the merits of the case and we are setting aside the impugned order only on the ground that the opportunity of filing the counter affidavit has not been provided to the learned counsel for the State.

10. Accordingly, the impugned order is set aside. The Letters Patent Appeal is allowed.

11. The parties are at liberty to raise all the points before the learned Single Judge having roster.

12. Interlocutory Application(s), if any, stands disposed of.

(Sangam Kumar Sahoo, CJ)

(Harish Kumar, J)

shailendra/-

AFR/NAFR	
CAV DATE	
Uploading Date	02.04.2026
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