

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CIVIL REVIEW No.247 of 2025**

**In**  
**Civil Writ Jurisdiction Case No.14166 of 2025**

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1. Sudhihar Kumar Son of Ruplal Mahto, resident of village- Aliganj, P.O.- Aliganj, P.S.- Sikandara, District- Jamui, Bihar.
  2. Ravindra Kumar, Son of Rambriksha Yadav, resident of Village- Akaunadih, P.O. - Akaunadih, P.S.- Muffassil, District- Nawadah, Bihar.
  3. Rita Kumari, daughter of Ram Chandra Prasad, resident of Vill P.O. - Fatehpur, P.S.- Akbarpur, District- Nawadah, Bihar.
  4. Pankaj Kumar, Son of Bijay Chaudhary, resident of Village- Prasad Bigha, Nawadah, P.S. -Nawadah, District- Nawadah, Bihar.
  5. Saista Khatoon, daughter of Md. Sakil Ahmad, resident of Village- Gondapur, P.O. - Gondapur, P.S. - Nawadah, District- Nawadah, Bihar.
  6. Ram Pravesh Kumar, Son of Shankar Mahto, resident of Village- Darkha, P.O.- Darkha, P.S.- Sikandara, District- Jamui, Bihar.

... .. Petitioner/s

Versus

1. The State of Bihar through the Additional Chief Secretary, Department of Education, Government of Bihar, Patna.
2. The Director, Department of Education, Government of Bihar, Patna.
3. The District Education Officer, Nawadah.
4. The District Programme Officer (Est.). Nawadah.
5. The Block Education Officer, Akbarpur, District - Nawadah.
6. Sindhu Rani, daughter of Ramanugrah Singh, resident of Village- Orhanpur, Post Office- Nawadah, Police Station - Muffasil, District- Nawadah, presently posted as Block Teacher, Government of Middle School, Mahanandpur, Block- Akbarpur, District- Nawadah.
7. Purushottam Kumar, Son of Girijinandan Singh, resident of village- Gopalpur, Police Station - Akbarpur, District- Nawadah, presently posted as Prakhand Teacher in National Middle School, Akbarpur, Block- Akbarpur, District Nawadah.

... .. Opposite Party/s

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**Appearance :**

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| For the Petitioner/s       | : | Mr. Ashok Chaudhary, Sr. Advocate<br>Mr. Akshansh Ankit, Advocate<br>Mr. Bhola Kumar, Advocate |
| For the Opposite Party/s : |   | Government Advocate 2                                                                          |

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**CORAM: HONOURABLE MR. JUSTICE AJIT KUMAR**  
**ORAL ORDER**

2      16-01-2026      Heard learned counsel for the petitioners and



learned counsel for the respondents/ opposite parties.

2. The instant petition is filed with the prayer to review the judgment and order dated 02.09.2025 passed in CWJC No.14166 of 2025 by this Court, whereby and whereunder, the writ application filed by the writ petitioners/ opposite parties (2<sup>nd</sup> set) herein for payment of salary was disposed of.

3. The instant review petition has been preferred by one of the candidates, who is stated to have been non-suited in the appointment process undertaken pursuant to the advertisement issued for the post of Block Teachers in the Akbarpur Prakhand Niyojan Unit. After completion of the selection formalities, the writ petitioners/opposite parties (2<sup>nd</sup> set) are stated to have been appointed. The review petitioner had initially filed a writ petition, being CWJC No. 17775 of 2015, challenging the appointment of the writ petitioners/opposite parties (2<sup>nd</sup> set), in which the learned Single Judge passed the following order:—

*5. The learned counsel for the respective parties are in agreement, apart from this Court also being of the opinion, that the District Teachers Employment Appellate Authority, Nawada ought to have decided the appeal on merits and should not have summarily dismissed the appeal. It has also been pointed out that much water has flown in the*



*meantime and the Vigilance has also lodged an FIR against the State authorities who have committed fraud and illegality, not only in the matter of issuance of select list but also in the process of issuance of appointment letter to the unsuccessful candidates.*

*6. Having regard to the facts and circumstances of the case and having considered the submissions made by the learned counsel for the parties, I deem it fit and proper to quash the order dated 28.09.2015, passed by the District Teachers Employment Appellate Authority, Nawadah, and remand the matter back to the District Teachers Employment Appellate Authority, Nawadah for reconsideration of the matter afresh on merits, upon grant of an opportunity of hearing to the respective parties.*

*7. It goes without saying that the petitioners would be at liberty to file additional affidavits, bringing on record all the documents/ select list etc. and the details about the events which have taken place during the interregnum period. It is further directed that the interim order dated 1.2.2018 passed by this Court in the present case to the effect that no payment of salary shall be made to the Block Teachers, who have obtained appointment pursuant to the selection process in question, shall continue till the final disposal of the appeal by the District Teachers Employment Appellate Authority, Nawadah.*

4. It is further evident from the record that L.P.A. No. 833 of 2019 was preferred by the review petitioners and the same was dismissed with the following observations:—

*“....4. We find absolutely no reason to accept the contention of the learned Senior Counsel that the*



*consent was only with respect to the disposal of the writ petition at the admission stage itself. The writ petition itself was filed in the year 2015 and the impugned judgment was passed on 19.06.2019, after four years. Further, no such specific ground has been taken in the appeal or even in the review petition. The appellants, hence have been prevaricating and there is an amount of dishonesty in having taken such contrary stances at different stages of the present litigation.”*

5. In light of these observations made in the appeal filed by the review petitioners being L.P.A. No. 833 of 2019, the Hon’ble Division Bench, while dismissing the appeal, made categorical observation with respect to the subject matter, as also with regard to the salary, which have been denied to the teachers discharging their duties. The said observations are extracted below:

*10. The learned Counsel appearing for the party respondents, however, would submit that they had been continuing without salary for long. The stay of disbursement of salary was ordered by a learned Single Judge, especially looking at the Vigilance Enquiry Report which is also on a prima facie consideration. In the above circumstances, when there is a remand made, it is only proper that the disbursement of salary would also be subject to the finding of the Appellate Authority, to which the case has been remanded.*

*11. We make it clear that the observations in the orders passed in the writ petition or this judgment in appeal; but for the directions herein above, would not regulate the consideration of the subject*



*matter by the Appellate Authority. The appellants and the respondents herein, will appear before the District Teachers Appellate Authority, Nawada on 28.11.2023. If the respondents are not made a party, they would be impleaded. The District Teachers Appellate Authority would consider the issue and dispose of the same as expeditiously as possible, especially considering the fact that those appointed are denied of their salaries. We also observe that it would be the responsibility of the authorities to establish that the selection conducted was fair and valid on the basis of the records maintained.*

*12. The L.P.A. stands dismissed with the further directions herein above to the District Teachers Appellate Authority, Nawada. Parties are left to suffer their respective costs.*

6. It is next evident from the record that the review petitioners did not stop here, but challenged the order passed in L.P.A. No. 833 of 2019 by filing a Special Leave Petition before the Hon'ble Apex Court, being SLP (C) No. 4368 of 2024. After hearing learned counsel for the parties and upon perusal of the materials on record, the Hon'ble Apex Court found no reason or ground to interfere with the impugned order passed by the Hon'ble Division Bench in L.P.A. No. 833 of 2019; accordingly, SLP (C) No. 4368 of 2024 was dismissed. With the dismissal of the SLP and the judgment/order passed by the Hon'ble Division Bench in L.P.A. No. 833 of 2019, though it did not merge, but attained finality.



7. In view of the above, the remand made by the learned Single Judge vide judgment dated 19.06.2019 in CWJC No. 17775 of 2015 required the District Teachers Employment Appellate Authority, Nawada, to adjudicate Appeal No. 16 of 2015, which was subsequently renumbered as Appeal No. 03 of 2025, and to decide the claim of the review petitioners, in which the Government officials including the persons appointed have been made party, but admittedly, the writ petitioners' appointment has till date not been interfered with by the Authority in question to which, the coordinate Bench had directed to adjudicate the claim of the review petitioners.

8. From the pleadings in the contempt petition (MJC No.3620 of 2025), as well as in the review petition, which is said to have been filed by the review petitioners (though not party in the instant writ petition in which instant review petition is filed), it does not appear as to why, despite the remand order passed by the learned Single Judge, which has been approved by the Hon'ble Division Bench, and the challenge to the same having been made before the Hon'ble Apex Court, which was dismissed *in limine*, till date the appeal, which was filed in the year 2015 and remanded in the year 2019, has remained pending for more than 10 years, and even for ensuring early adjudication,



only effort has been taken by the review petitioners by invoking the remedies as provided in law.

9. It is not the case of the review petitioners that they made themselves available before the District Teachers Employment Appellate Authority on each and every date fixed, and despite their participation, no adjudication has been made. Owing to such prolonged pendency of the appeal and delay in adjudication, the writ petitioners/opposite parties (2<sup>nd</sup> set) were compelled to file a writ application bearing CWJC No. 14166 of 2025 with the following prayer:-

*(i) For setting aside the impugned order bearing Memo No.120 dated 21.06.2025, passed in Complaint Case No.03 of 2024 by learned District Teachers Employment Appellate Authority, Nawada, (Annexure-P/8), whereby in pursuant to liberty granted by this Court in C.W.J.C. No.7458 of 2024 vide order dated 13.08.2024 in batch cases giving liberty to the petitioners to move before District Appellate Authority first for redressal of grievance for non-payment of salary of the working period since 03.08.2015 to till date and accordingly, petitioner filed Case No.03 of 2024 before the District Appellate Authority, Nawada which has been disposed of without passing final order on the issue of payment of due salary since 03.08.2015 during which petitioners have discharged duty but by virtue of impugned order claim of petitioners have been denied in pretext of pendency of one complaint being Case No.03 of 2025 filed by the unsuccessful candidates raising the issue of validity of appointment of petitioners*



*but till date appointment of petitioners have not been cancelled and as such impugned order is bad in eye of law as also contrary to Article 23 of the Constitution of India.*

*(ii) For directing the respondents concerned to pay the due salary of petitioners for working period i.e. 03.08.2015 till date in view of settled proposition of law by Hon'ble Apex Court in judgment reported in 2022 LiveLaw (SC) 341 (Man Singh Versus State of Uttar Pradesh) as well as 2024(1) PLJR (SC) 176 (Radheshyam Yadav Versus State of Uttar Pradesh) as also in view of Memo No.734 dated 08.07.2022 issued by the Respondent State itself specially with regard to payment of salary of working period and despite that non payment of the same in pretext of pendency of case filed by another person is not tenable in the eye of law.*

*(iii) For any other relief(s) for which petitioners are found entitled to in the eye of law.*

10. In the said writ petition, the writ petitioners/opposite parties (2<sup>nd</sup> set) made a specific prayer that the authorities may be directed to pay their salaries for the period of service from 03.08.2015 to date, in view of the judgment rendered by the Hon'ble Apex Court in ***Man Singh v. State of Uttar Pradesh, 2022 LiveLaw (SC) 341***, which specifically directs that if the respondent State has allowed employees to discharge their duties, they are entitled to receive payment of salary for the period they have worked on the post against their appointment. However, the judgment also categorically states that, even if the appointment is irregular, still



the employee who has discharged his duties on the post is entitled to the same. The relevant portion of the order passed by the Hon'ble Apex Court, which is extracted herein below:

*“We find that the High Court has failed to consider the fact that even if the appointment was irregular, the appellant had discharged the duties and in lieu of duties, he had to be paid. The State cannot take any work from any employee without payment of any salary.”*

11. Since, the review petitioners have already been non-suited by the duly constituted selection committee, and the writ petitioners/opposite parties (2nd set) were appointed by the said committee and are continuing in service pursuant to such appointment, (though their appointments are subject matter of appeal) there is no reason, nor do the review petitioners have any locus, at this stage, to seek interference with the relief sought by the writ petitioners/opposite parties (2nd set), as the relief sought are in the nature of protecting their right to life guaranteed under the constitutional scheme. Moreover, the Division Bench has already dismissed LPA No. 833 of 2019, filed by these review petitioners, categorically observing that the appellants/review petitioners have been prevaricating and have also demonstrated a degree of dishonesty by taking contrary stances at different stages of the present litigation, which is quite



evident from the conduct of these review petitioners, who are said to have not come with clean hands, by not bringing on record the similar attempts made by filing LPA No.185 of 2025 in CWJC No.6748 of 2024, which was dismissed on the ground of locus *standi*. Furthermore, they did not provide the reasons regarding pendency of the appeal and the efforts having been taken to get the same decided expeditiously, in which directions have been made by the learned Single Judge to decide the same, while it is the case of the writ petitioners/ opposite parties (2<sup>nd</sup> set) is that the review petitioners are unnecessarily getting the same adjourned and delaying the appeal pending before the District Teachers Employment Appellate Authority, Nawadah.

12. At this stage, learned counsel for the review petitioners prayed that the statement made in paragraph 6 of the review petition be taken into consideration. Whereas, this Court rejects such prayer in view of the observations made by the Hon'ble Division Bench, which specifically record that the review petitioners have been changing their stance at different stages in various proceedings. However, it is apt to record that the Hon'ble Division Bench, while approving the remand made by the learned Single Judge, observed that the District Teachers Employment Appellate Authority, Nawada, would consider the



issue and dispose of the same as expeditiously as possible, especially considering the fact that the appointees to the post are denied their salary, whereas it has also been observed in the said order that it would be the responsibility of the authority to establish that the selection conducted was fair and valid on the basis of the records maintained.

13. It is worth to note that while making remand of the appeal in question, the learned Single Judge may not have thought that the appeal may remain pending for almost 6 years even from the date of remand, and the appointees may be coerced to file writ application for payment of salary, owing to such inordinate delay in disposal of the appeal.

14. Considering the aforesaid, this Court observes that the review petitioners, without any prudent reason, and instead of concentrating on the adjudication/ disposal of the appeal, are chasing the writ petitioners/opposite parties (2nd set) by means of all available legal remedies, while such appropriate remedies have already been exhausted with their appeal having been restored and as such, their attempt to file the review petition, to re-argue/re-agitate the whole issues, for which the forum has already been provided with restoration of appeal, cannot be permitted. This Court had disclosed its mind to impose a cost of



Rs. 25,000/- (Rupees Twenty-Five Thousand) each upon all the review petitioners, for having misused the legal process by filing the review petition, despite having no locus to interfere in the relief, for which the writ petition was filed; but, on the prayer made by the instructing counsel of this case to consider the fact that the review petitioners are jobless and payment of cost may be difficult for them, this Court refrains from imposing such cost for the present, giving sympathetic consideration, as also by acceding the prayer of the counsel made at the concluding stage of the argument.

15. From the conduct of the review petitioners, it is quite clear that, instead of focusing on their appeal and getting the same adjudicated as per the remand made by the learned Single Judge, which, having been approved by the Hon'ble Division Bench, the attempt being made by them to prejudice the right of these writ petitioners/opposite parties (2nd set) by filing a review petition is highly deprecated, as it shows their malice and hidden agenda so designed to re-initiate the fresh proceedings, which have already been culminated with the direction to the District Teachers Employment Appellate Authority to adjudicate the appeal expeditiously; and, the same having not been decided even after expiry of six years from the



date of remand, the writ petitioners/opposite parties (2nd set), taking cue from the order passed by the Hon'ble Apex Court in *Man Singh* (supra), invoked the jurisdiction of the Court for payment of salary to protect their livelihood and right to life, and while doing so, they were well within their constitutional limits and rights guaranteed under the Constitution of India.

16. Accordingly, the instant review petition stands dismissed.

17. It is made clear that any observation made by this Court, while deciding the review petition, may not affect the merits of the appeal, which is remanded by the coordinate Bench to be adjudicated by the District Teacher Employment Appellate Authority, Nawadah, and the parties are at liberty to have their grievances redressed/adjudicated on its own merit, without getting prejudiced by any observation made in this case, in any manner.

**(Ajit Kumar, J)**

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