

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16959 of 2021

1. Ramesh Mahto S/o-Late Nirgun Mahto, R/o-Vill-Mamaura, P.O.-Dubauli, P.S.-Panapur, District-Saran at Chapra.
2. Samita devi @ Ramita Devi, D/o-Bishwanath Rai, W/o-Rajesh Kumar, R/o-Vill-Chimanpura, P.S.-Panapur, District-Saran at Chapra.
3. Priyanka Kumari D/o-Shri raghunath Singh, W/o-Abhimanu Singh, R/o-Bhorha, P.S.-Panapur, District-Saran at Chapra.
4. Vinita Kumari, D/o-Kaushal Kishore Singh, R/o-Vill-Maghri, P.S.-Basantpur, District-Saran at Chapra.
5. Anish Kumar, S/o-Harendra Singh, R/o-Vill-Maghri P.S.-Bhawanpur, District-Saran at Chapra.
6. Jitendra Kumar Singh S/o-Bhikhari Singh R/o-Vill-Sahwajpur, P.S.-Panapur, District-Saran at Chapra.
7. Rima, W/o Om Prakash Kumar, R/o-Vill - Dhenuri, P.S.-Panapur, District-Saran at Chapra.
8. Indu Devi, W/o-Mahesh Rai, R/o-Vill-Bhorah, P.S.-Panapur, District-Saran at Chapra.
9. Arun Kuamr Prasad, S/o-Raj Kumar Prasad R/o-Vill-Dubauli, P.S.-Panapur, District-Saran at Chapra.
10. Renu Kumari, D/o-Bishnudeo Singh, W/o-Manoj Kumar Singh, R/o-Vill-Pratappur, P.S.-Awtarpur, District-Saran at Chapra.
11. Umesh Kumar Ranjan, S/o-Laldhar Ram, R/o-Vill-Rasauli, P.S.-Panapur, District-Saran at Chapra.
12. Malti Kumari D/o-Jagannth Prasad, W/o-Chhadilal Prasad, R/o-Vill-Dahiyawan, P.S.-Nagar, District-Saran at Chapra.
13. Anita Kumari D/o-Bhagwan Singh, R/o and P.O. Dhenuki, P.S.-Panapur, District-Saran at Chapra.
14. Sarita Kumari W/o Rajeev Kumar, R/o and P.O.-Balial, P.S.-Maharajganj District-Siwan.
15. Seema Kumari D/o-Dewanand Pandey, R/o-Vill-Hasabir, P.S.-Masrak, District-Saran at Chapra.
16. Dimpri Kumari D/o-Kameshwar Singh, R/o-Vill-Balhar, P.S.-Amanur, District-Saran at Chapra.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. The Additional Chief Secretary, Education Department, Govt. of Bihar, Patna.
3. The Director, Primary Education, Govt. of Bihar, Patna.
4. The District Education Officer, Saran at Chapra.
5. The District Programme Officer (Estt.) Saran at Chapra.
6. The Block Education Officer, Panapur, Saran at Chapra.



7. The Mukhiya Gram Panchayat Bhorah, Block-Panapur, Saran at Chapra.
8. The Panchayat Secretary, Gram Panchayat Raj Bhorah, Block- Panapur, District-Saran at Chapra.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Rajeev Kumar Singh, Advocate.
Ms. Rushali, Advocate.
For the Respondent/s : Mr. Amit Bhushan, AC to GP-17.

**CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL JUDGMENT**

Date : 17-04-2025

Heard Mr. Rajeev Kumar Singh, learned counsel along with Ms. Rushali, learned counsel appearing on behalf of the petitioners and Mr. Amit Bhushan, learned AC to GP-17 for the State.

2. The petitioners in paragraph no. 1 of the present writ petition have sought, *inter alia*, following relief(s), which is reproduced hereinafter:-

“(i) To quash the order dated 15.12.2020 passed in Appeal No- 191/2019 by the State Appellate Authority, Patna, whereby and whereunder the order dated 25.03.2017 passed in Case No- 15/16 has been modified and further direction has been issued to the employment Unit of Gram Panchayat Raj Bhorah, Block-Panapur, District Saran at Chapra to seek due approval from the competent authorities with regard to the vacancies of 2008 of the Government and thereafter proceed to comply with the order as directed by the Ld. District Appellate Authority. A copy of order dated 15.12.2020 passed in Appeal no-191/2019 is annexed as ANNEXURE-1 to this application.

(ii) To direct the Employment Unit of Gram Panchayat Raj Bhorah, Block-Panapur, District Saran at Chapra to issue appointment letters in favour of petitioners on the post of Panchayat Teacher forthwith as per order dated 25.03.2017 passed in Case No- 15/16 and order contained in memo no- 116 dated 30.08.2018 passed in Execution Case No- 48/2017 with all consequential and monitory benefits.

And for any other appropriate relief(s) as per the facts and circumstances of this case.”

3. Learned counsel appearing on behalf of the



petitioners submitted that the petitioners' name figured in the select list which was published on 25.02.2009 and the same was not implemented by appointing the petitioners on the post of Panchayat Teacher in accordance with the provision of Bihar Panchayat Elementary Teachers (Employment and Service Conditions) Rules, 2006 (hereinafter referred to as the 'Rules 2006'). Thereafter, the petitioners preferred appeal before the District Appellate Authority, Saran at Chhapra.

4. The District Appellate Authority directed the Employment Unit to proceed with the appointment process within a period of two months. The direction of the District Appellate Authority was not complied and the petitioners were forced to approach this Court by filing C.W.J.C. No. 8065 of 2019 and C.W.J.C. No. 8999 of 2019.

5. This Court vide order dated 19.04.2019 and 24.04.2019 passed in C.W.J.C. No. 8065 of 2019 and C.W.J.C. No. 8999 of 2019 respectively directed the District Magistrate, Saran at Chhapra to ensure compliance of the order dated 25.03.2017 passed by the District Teachers Employment Appellate Authority, Saran in case No. 15 of 2016, as also the order dated 30.08.2018 passed by the said Appellate Authority in Execution Case No. 48 of 2017.

6. The respondents challenged the order dated



25.03.2017 passed by the District Appellate Authority in Case No. 15 of 2016 before the State Appellate Authority. The State Appellate Authority after considering the entire facts of the case, as well as, the Resolution contained in Memo No. 465 dated 09.07.2012, particularly Clause '3' of the said Resolution, directed the respondents to consider the claim of the petitioners and had also directed the respondent Employment Unit to seek due approval with regard to the vacancy from the competent authority of the Government. Learned counsel has referred Rule 18 of the Bihar Panchayat Elementary Teachers (Employment and Service Conditions) Rules, 2012 (hereinafter referred to as the 'Rules 2012'), which saves all the past action taken and as such he contends that the condition contained in Sub Clause '3' is required to be carried by the said authority.

7. *Per contra*, learned counsel appearing on behalf of the State submitted that as on date he has no instruction in respect of the subsequent development which was required to be carried out in compliance of the judgment and order passed by the State Appellate Authority dated 15.12.2020 passed in Appeal No. 191/2019, however, he has also submitted that the Rules, 2006 has been repealed by Rules, 2012 and Rules, 2012 has subsequently been repealed by the the Bihar Panchayat Elementary School Service (Appointment, Promotion, Transfer,



Disciplinary Proceedings and Service Conditions) Rules, 2020 (hereinafter referred to as 'Rules, 2020) and now selection process relating to appointment of teacher is conducted by open competition in terms of the Bihar School Exclusive Teachers Rules, 2023 (hereinafter referred to as the 'Rules 2023'). Learned counsel further submits that in view of the subsequent development, the executive instruction contained in Resolution No. 465 dated 09.07.2012 cannot be given effect and as such there is no merit in the present writ petition.

8. Having considered the rival submissions made on behalf of the parties, as well as, having perused the order passed by the District Appellate Authority and the State Appellate Authority, I find, in the background of the event which has taken place, the petitioners were selected for being appointed as Panchayat Teacher. The Employment Unit restrained from issuing appointment letter to the petitioners. The petitioners were forced to ventilate their grievance before the District Appellate Authority and the District Appellate Authority directed to proceed with the appointment process and comply the same by issuing appointment letter within two months. The order of the District Appellate Authority was not carried out and the petitioners were forced to file C.W.J.C. Nos. 8065 of 2019 and 8999 of 2019. This Court directed to comply the order



passed by the District Appellate Authority. Instead of complying with the order of this Court, respondents preferred appeal before the State Appellate Authority.

9. The State Appellate Authority after considering the entire facts of the case and the case of the petitioners having taken note of the Government Resolution contained in Memo No. 465 dated 09.07.2012 modified the order passed by the District Appellate Authority. I find it proper to reproduce the relevant part of the Government Resolution dated 09.07.2012 as under:

“नियोजन हेतु पदों की गणना एवं वितरण के सम्बन्ध में पत्रांक-429, दिनांक 22-06-2012 में वर्णित निर्देशों के अतिरिक्त निम्न महत्वपूर्ण निदेश दिये जा रहे हैं:-

(i) वर्ग I से V तक के लिए स्वीकृत नये विद्यालय खोलने हेतु पदों में उर्दू शिक्षक के पद भी सम्मिलित हैं। जिला द्वारा आवश्यकता के अनुसार उनका वितरण किया जाएगा।

(ii) वर्ग VI से VIII तक के लिए स्वीकृत पदों में अधिसूचना संख्या 429 दिनांक 22-06-2012 के द्वारा निर्गत मार्गनिदेश की कंडिका 2 में अंकित गणित, विज्ञान, सामाजिक विज्ञान तथा हिन्दी, अंग्रेजी, संस्कृत भाषा के पद सम्मिलित हैं। ये पद जिला द्वारा आवश्यकता के अनुसार मध्य विद्यालयों में वितरित किये जायेंगे। किन्तु किसी एक विषय या किसी एक भाषा के एक से अधिक पद एक ही विद्यालय में नहीं दिये जायेंगे। सामाजिक विज्ञान के अन्तर्गत शिक्षक पात्रता परीक्षा में अंकित सभी विषय होंगे। इतिहास एवं भूगोल की अनिवार्यता शिथिल माना जाएगा।

(iii) जिला द्वारा पूर्व की रिक्ति (विवादित रिक्ति को छोड़कर) नियमानुसार नियोजन हेतु जोड़ा जाएगा।”

10. Considering the interregnum period, Rules, 2006 was repealed by Rules, 2012. Rule 18 of Rules, 2012 saves past action and in this background petitioner claims that since they were selected and appointed letter was not issued due to arbitrary action of the Employment Unit for their own vested interest, the appointment of the petitioners directed by the



District Appellate Authority, as well as, the State Appellate Authority has not been questioned in any manner and this Court had directed to execute the same. In spite of clear observation made by the State Appellate Authority in its order, the respondents have not issued appointment letter in favour of the petitioners till date.

11. I have no alternative than to direct the District Education Officer and the District Programme Officer (Establishment) concerned to call for the service particulars relating to the petitioners from the Employment Unit and take appropriate action to comply with the order passed by the District Appellate Authority and as modified by the State Appellate Authority vide order dated 15.12.2020 which requires issuance of appointment letters to the petitioners.

12. The writ petition stands disposed of.

(Purnendu Singh, J)

mantreshwar/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	21.04.2025
Transmission Date	NA

