

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.17755 of 2021**

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Ram Vinay Prasad @ Ram Vinay Kumar Son of Nemi Chandra Sah Resident of Village - Riga, Mill Bazar, Ward No. 13, Kusumpur Bakhri, Police Station - Riga, District- Sitamarhi, At present posted and working as a Secondary Teacher in High School Bairgania, Anchal - Bairgania, District- Sitamarhi.

... .. Petitioner/s

Versus

1. The State of Bihar Bihar.
2. The Principal Secretary - cum- Additional Chief Secretary, Education Department, Govt. of Bihar, Patna.
3. The Director, Secondary Education, Govt. of Bihar, Patna.
4. The District Magistrate, Sitamarhi.
5. The Additional Collector, Sitamarhi.
6. The Senior Deputy Collector, Sitamarhi.
7. The Deputy Development Commissioner - cum- Chief Executive Officer, Muzaffarpur.
8. The Regional Deputy Director of Education, Tirhut Division, Muzaffarpur.
9. The District Education Officer, Sitamarhi.
10. The District Programme Officer (Secondary Education), Sitamarhi.
11. The District Programme Officer (Establishment), Sitamarhi.
12. The Executive Officer, Nagar Parishad, Bairgania, District- Sitamarhi.

... .. Respondent/s

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**Appearance :**

For the Petitioner/s	:	Mr.Umesh Kumar Mishra
For the State	:	Ms.Abhanjali, Ac to Ga12
For the Respondent No. 12	:	Mr.Neeraj Kr. Singh

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

**Date : 12-01-2026**

In the instant petition, petitioner has prayed for the following relief(s):-



*“I. For issuance of an appropriate writ in the nature of certiorari for quashing memo no. 1475 dated 09.09.2021 issued under the signature of the Director, Secondary Education, Bihar, Patna addressing to the Executive Officer-cum- the Secretary, Nagar Secondary Teacher Employment Unit, Nagar Panchayat, Bairgania, District-Sitamarhi by which, he has stated that the selection of teachers for the 5<sup>th</sup> phase in the Nagar Panchayat Bairgania has been done against the roster point and in the enquiry the allegation has been found to be true. Therefore, he has directed for cancellation of illegal appointment, which has been referred to in the enquiry report, without verifying the facts of the case of the petitioner.*

*II. For issuance of an appropriate writ in the nature of certiorari for quashing the memo no. 2171 dated 31.07.2021 issued under the signatures of four men Enquiry Committee by which, it has been held that in the Nagar Panchayat, Bairgania, district Sitamarhi only two vacancy available for the Social Science subject against which two persons, namely, Ranjit Kumar and Shri Saroj Kumar have been appointed but in spite of no other vacancy, the selection of Shri Ram Vinay Kumar (petitioner) have been done, which does not appear to be proper. The said enquiry report is ex-parte one as the said enquiry has been completed without noticing the petitioner and giving an opportunity to him of being heard and furthermore, the aforesaid Enquiry Report has been issued without appreciating the correct facts.*

*III. For issuance of an appropriate in the nature of certiorari for quashing the letter no. 51 dated 11.01.2017 issued by the District*



*Education Officer, Sitamarhi, the roster forwarded vide letter no. 1966 dated 17.07.2016 was amended vide letter no. 2479 dated 17.10.2016 in such a condition the memo no. 1966 dated 17.07.2016 considered automatically cancelled as the same has been manufactured subsequently only with a view to harass the petitioner and to snatch the only source of his livelihood and only to show that there was no backlog vacancy of Social Science subject existing in the Nagar Panchayat Bairgania, against which, the petitioner has been selected/appointed in the year 2017.*

*IV. For issuance of an appropriate writ in the nature of mandamus for commanding and directing the respondent authorities concerned to comply the order passed by the learned District Teacher Employment Appellate Authority, Sitamarhi in Case No. 40/2019 (Ramvinay Kumar vs. the District Education Officer, Sitamarhi and Others) on 18.12.2020 and communicated vide memo no. 20 dated 18.12.2020, holding the selection / appointment of the petitioner genuine and valid and directed the District Programme Officer (Establishment), Sitamarhi to ensure the payment of the petitioner and others within a period of two months.*

*V. For issuance of an appropriate writ in the nature of mandamus for commanding and directing the respondent authorities concerned to pay the arrears of salary due since the date of joining as well as current salary to the petitioner in the light of the memo no.107 dated 11.03.2008 issued under the signature of the Commissioner and Secretary, Education Department and the letter no.387 dated 17.06.2015 issued by the Principal Secretary, Education*



*Department, Govt. of Bihar, Patna, by which there is specific direction that the teacher's salary will not be withheld.*

*VI. For issuance of an appropriate writ in the nature of mandamus for commanding and directing the respondent authorities concerned to redress the genuine grievance of the petitioner for payment of his arrears of salary as well as current salary without any further delay.*

*VII. For issuance of any other writ/writs, order/orders, direction/directions for which the petitioner will be entitled in the facts and circumstances of the present case.”*

2. Counsel for the petitioner by taking this Court to Annexure-13 submits that after passing of order by the District Appellate Authority in Case No. 40/2019 dated 18.12.2020, which is contained in Memo No. 20 dated 18.12.2020, the Director, Secondary Education is said to have issued a letter dated 09.09.2021. Whereas, he has come out with a finding that the allegations of violation of roster so levelled against this petitioner with regard to his appointment have been found to be true. While, the said allegation has been put at rest by the Appellate Authority in the aforementioned case. The findings which is said to have been recorded in the letter dated 09.09.2021, from which it does not appear that this petitioner was ever called in question before recording such findings of fact that the allegations are found correct and appropriate steps for cancellation has been taken.



3. In view of the letter dated 09.09.2021, whereby, the allegations have been found to be true, may be good grounds to prefer appeal against the order dated 18.12.2020, passed by the District Appellate Authority, before State Appellate Authority, which forum is available under the statute. Such steps having not been taken, it is a clear case of overreach, and the authorities, who were supposed to have complied the directions issued by the District Appellate Authority, instead having not carried out the formalities of compliance has chosen for passing such orders, has invited appropriate disciplinary action in terms of the directions issued by the Additional Chief Secretary, Department of Education as contained in Memo No. 580 dated 11.03.2019, for having not complied the directions of the District Appellate Authority/State Appellate Authority, which has attained finality. This issue is left open for the authorities competent in law to be addressed accordingly. The order as contained in letter *vide* Memo No. 1475 dated 09.09.2021 where the findings in respect of the allegations have been found, to be true is recorded by referring to the Enquiry Report (Annexure-12) *vide* Memo No. 2171 dated 31.07.2021, these findings may be good grounds and very appropriate for taking them to challenge the order, which is said to have been passed by the District Appellate Authority, and the only recourse



which is now available with the authorities. At this stage, to get such findings adjudicated before the said forum, which is available in law, by putting the said, the District Appellate Authority, to such challenge, which is till date has not been tinkered by the forum as provided in law, the authorities are always left with such option to take appropriate remedy in law, if not impeded by the law of limitation. In case of there being no prudent ground available with the authorities, to put the order of the District Appellate Authority to such challenge for getting the order interfered by the higher forum, in such an event, the order passed by the District Appellate Authority shall be complied with within a period of eight weeks' from the date of filing of representation.

4. At this stage, counsel for the petitioner submits that petitioner is still continuing in service on the post of Nagar Secondary Teacher, despite, such findings dated 09.09.2021 is recorded by the authorities and submits that since the petitioner is also discharging his duties, therefore, appropriate directions may be issued to the concerned authorities, to pay salary to this petitioner for the duties discharged till today.

5. On the other hand, counsel representing Nagar Panchayat, does not dispute such submissions of the petitioner. In view of such submission, the petitioner is hereby directed to file



appropriate representation before the authorities concerned, who shall adjudicate the claim insofar the salary part is concerned by passing appropriate order in the light of the judgment passed by the Apex Court in the case of *Maan Singh vs. Union of India & Ors.* (2003) 3 SCC 464; AIR 2003 SC 1800 within the same period.

6. It is made clear that since petitioner is continuing in service, he shall not be disturbed from the said post, on the strength of impugned findings recorded in letter dated 09.09.2021, issued relying upon the inquiring report dated 31.07.2024, so long, those findings are approved by the higher forum, as provided in law, interfering with the order passed by the District Appellate Authority dated 18.12.2020, which is said to have attained finality.

7. Since, the respondents could not take appropriate steps, in this matter due to pendency of the present writ petition, as such, the issue of limitation is left open to be adjudicated by the concerned forum/authorities at appropriate stage, if such applications are filed by the State-respondents for seeking interference as against the order passed by the District Appellate Authority, invoking the jurisdiction of State Appellate Authority by referring to the appropriate provision of limitation.



8. Accordingly, the instant writ petition stands disposed of.

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

**(Ajit Kumar, J)**

abhishekk/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	17.01.2026
Transmission Date	NA

